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TRINITY CHURCH

PAMPHLETS.

COLLECTED FOR THE CORPORATION.

1857.

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CHARTER

OF THE

CORPORATION OF TRINITY CHURCH.*

GULIELMUS, Tertius, Dei Gratia Angliæ, Scotiæ, Franciæ et Hiberniæ, Rex fidei Defensor, &c. To all to whom these Presents shall come, sendeth greeting:

Whereas, by an act of assembly made in the fifth year of our Reigne, entitled "An act for settling a Ministry and Raising a maintainance for them in the city of New Yorke, countys of Richmond, Westchester and Queens county;" among other things therein conteined it is enacted that there shall be called, inducted and established, a good sufficient Protestant Minister to officiate and have the care of souls within our said city of New Yorke, and for his better encouragement to attend the said service, it is thereby further enacted that there shall be annually, and once in every year, assessed, levyed, collected and paid for the yearly maintainance of the said minister within our city and county of New Yorke the sume one hundred Pounds currt. money of our province of New Yorke, to be assessed, levyed, collected and paid in such manner and proportion as is further directed in the Body of the aforesaid act, relation being thereunto had may more fully and at large appear. And Whereas, at the same time when the aforesaid act was made, there was not erected any public church or building within our said city whereunto such a good sufficient Protestant minister might have been inducted for his orderly officiating of his duty in the public worship and service of God according to the Rites and ceremonys of our Protestant Church of England Established by our laws: And Whereas, our trusty and well beloved Benjamin Ffletcher, our captain-Generall and Governour-in-Chiefe of our said province of New Yorke and Territoryes depending thereon

Preamble reciting act of 22d September, 1693, providing for a Protestant minister in New-York.

There was then no public church in the city.

* This copy is printed in conformity, as nearly as possible, with the record in the Secretary's office. It differs very little, except in the spelling, from that appended to Judge Troup's pamphlet, which is supposed to have been copied from the original charter, conformed to the modern spelling. Where there is any difference *in words* between the two, those in Judge Troup's copy, and not in the Secretary's record, are inserted between brackets.

in America, hath by liberall and bountifull donations as well as by his pious example influenced many of our loving subjects who have likewise religiously contributed according to their respective abilityes several sumes of money which by our said captaine-Generalls direction have been employed and laid out for the erecting and building a church and laying the foundation of a steeple within our said city that the public worship and service of god in manner aforesaid might be more orderly and reverendly performed by the aforesaid minister. And Whereas, our loving subjects Coll Caleb Heathcote one of our Council of our said province Major William Merret Mayor of our said city of New Yorke, John Tuder, James Emott, William Morris, Robert Lurting, Thomas Clarke, Ebenezer Wilson, Samuel Burt, James Evertts, Nathaniel Martson, Michael Howden, Thomas Wenham, John Crooke, and William Sharpas, citizens and inhabitants of our said city of New Yorke, and the present managers of the affairs of our said Church of England within our said city of New Yorke, have by their petition, presented unto our said trusty and well beloved Benjamin Ffletcher, our said Captain-Generall and Governour in chiefe of our said province of New Yorke and terreitoryes depending thereon in America prayed our royall grant and confirmation of a certaine church and steeple that hath been lately built within our said city of New Yorke, together with a certaine piece or parcell of ground thereunto adjoyning scituate lyeing and beeing in or neere to a streete without the north gate of our said city commonly called and knowne by the name of the Broadway, conteining in breadth on the East end as the said streete of the Broadway rangeth Northward three hundred and tenn foot until you come unto the land lately in the tenure and occupation of Thomas Lloyd Decd : and from thence towards the west in length by the said land until you come unto Hudson's River and thence southward along Hudson's river three hundred and ninety-five foot all of English measure, and from thence by the line of our garden Eastward unto the place of the said street in the Broadway where first begunn, and that the said church together with the cemetry or church yard thereunto adjoyning may forever hereafter be dedicated and consecrated to the public worship and service of God according to the Rites and ceremonies of the protestant church of England as now established by our laws ; which said church and steeple, scituate, lying, and being within our said city as aforesaid, having been built and erected at the charge of our said trusty and well beloved Benjamin Ffletcher, our said Captaine-Generall and Governour as aforesaid and of severall other of our loving subjects, inhabitants within our said city and province. And Whereas, our said loving subjects in their said humble petition have like-

Contributions for a church.

Petition of certain persons to the Governor,

for grant and confirmation of church and certain grounds ;

and that church and ground may be dedicated to public worship ;]

wise prayed that We would be graciously pleased for the better accommodation and conveniency of the inhabitants of our said city of New Yorke, that the same church might be made Parochiall and incorporate into one body Politicq in fact and name by the name of the Rector and inhabitants in communion of the Protestant church of England as now established by our laws ; and that as such, they and their successors may have, hold, use, occupy and enjoy all the rights, benefits, advantages, privileges, immunityes, Mortuarys and appurtenances as are usually held and enjoyed by all or any of our Parochiall Churches of our Church of England within our Realme of England, and also that We would be further graciously pleased to appropriate unto our said church the aforesaid yearly maintainance of one hundred pounds enacted by the aforesaid act, and make our further Royall grant of a certaine quantity of our land neere adjoyning to the said church unto the said petitioners in trust for the use of our said church and corporation.

and that said church may be made parochial and be incorporated with certain powers and privileges ;

and that grants of money and may be made.

Now, know ye that in consideracon of the great charge that our said trusty and well beloved subject, Benjamin Ffletcher, our Captain-Generall, as aforesaid, and the rest of our aforesaid loving subjects, inhabitants within our said city &c., have been at in the erecting of the said Church, and laying the foundation of a steeple, and the further great charge that must unavoidably acrew for the finishing the said church and steeple, and the providing it with suitable ornaments, as also for the erecting and providing a house neere the said church for the habitation of a minister to officiate in the said church in manner aforesaid, as well as of our pious inclinations to promote, propagate, and encourage all our loving subjects within our said province in that reverend and Godly duty, in worshiping and serving God according to the commendable rites and ceremonyes of our Protestant Church of England as now established by our laws, have therefore thought fitt, and do hereby publish, grant, ordaine, manifest, and declare that our Royall will and pleasure is, and by these presents do, grant and declare that the aforesaid church, erected and built as aforesaid, scituate in and neere the street called the Broadway, within our said City of New-Yorke, and the ground thereunto adjoining, inclosed and used for a Cemetry or Church yard, shall be the Parish Church and Church yard of the Parish of Trinity Church, within our said city of New York, and the same is hereby declared to be for ever separated and dedecated to the service of God, and to be applyed therein [thereunto] to the use and behalfe of the inhabitants from time to time inhabiting, and to inhabit, within our said City of New Yorke, in communion of [with] our said Protestant Church of England as now established by our laws, and to no other use or purpose whatsoever, any statute law, custome, or usage to the contrary in any ways notwithstanding. And that there

Inducements for charter.

The aforesaid church and ground to be the parish church and churchyard of the parish of Trinity Church, to use of certain inhabitants.

To be a rector in perpetual succession.

shall be a Rector to have care of the souls of the inhabitants of said Parish, and a perpetual succession of Rectors there. And we do by these presents constitute our right, trusty, and well beloved the Right Reverend Father in God Henry Lord Bishop of London, and of our Privy Councill, the first Rector thereof. And we have further thought fitt and, at the humble request of our said loving subjects, are graciously pleased to create and make him our said Right trusty and well beloved and Right Reverend Father in God Henry Lord Bishop of London and his successors, Rectors of the said Parish, together with all the inhabitants from time to time inhabiting, and to inhabit in our said City of New Yorke, and in communion of our aforesaid Protestant Church of England, as now established by our laws, a body corporate and Politiq, with the powers and privileges hereinafter mentioned. And accordingly our Royall will and pleasure is, and of our speciall Grace certaine knowledge and meere motion We have ordained, constituted, and declared, and by these presents for us, our heirs and successors, do ordaine, constitute, and declare that he, the said Right trusty and well beloved Right Reverend Father in God, Henry, Lord Bishop of London, and his successors, and all such of our loving subjects as now are or hereafter shall be, admitted into the communion of [the] aforesaid Protestant Church of England as now established by our laws, shall be from time to time and for ever hereafter a body corporate and politique, in fact and name, by the name of the Rector and Inhabitants of our said City of New Yorke, in communion of our Protestant Church of England as now established by our laws. And that by the same name they and their successors shall and may have perpetuall succession, and shall and may be persons able and capable in the law to sue and be sued, to plead and be impleded, to answer and be answered unto, to defend and be defended in all and singular suits, causes, quarrells, matters, actions, and things of what kind or nature soever, and also to have, take, possess, receive, acquire, and purchase, lands, tenements, hereditaments, or any goods or chattells, and the same to use, lease, grant, demise, alien, bargain, sell, and dispose of at their own will and pleasure, as other our liege people, or any corporation, or body politicque within our realme of England or this our Province may lawfully do, not exceeding the yearly value of five thousand pounds, the statute of mortmaine or any other statute law, custome, or usage to the contrary hereof in any ways notwithstanding. And that the said Rector shall have the care of the souls of the inhabitants within the said parish, and in the communion of our said Protestant Church of England as now established by our laws. And have and enjoy to him and his successors for ever one messuage or tenement and appurtenances intended to be erected on part of the said church-yard, or near there-

Bishop of London first rector; and he and his successors to be rectors.

Persons incorporated.

Name of corporation.

Powers of corporation to sue and be sued.

To take lands chattels, &c.

To lease and sell.

Limitation of value.

Rights of rector.

unto as conventiently as can be procured. And our Royall will and pleasure is, further, that the patronage, advowson, donation, or presentation of and to the said Rectory and Parish after the decease of the said first Rector, or the next avoidance thereof, shall appertain and belong to, and be hereby vested in the Churchwardens and Vestrymen, or the major part of the said Vestrymen, together with either of the Churchwardens of Trinity Church for the time being. And that all the succeeding Rectors of the said Parish and Parish Church (except the first Rector thereof hereby constituted) shall be presented, collated, instituted, and inducted as other Rectors, Persons, and Vicars respectively are accustomed to be; and we further declare it to be our Royal will and pleasure that the first Rector, and all the succeeding Rectors thereof, shall and may have, take, and enjoy such and the like Oblations, Mortuaryes, Easterbooks or Offerings, and other Ecclesiastical Dutyes arising within the said Parish of Trinity Church, as the Vicar, Rector, or parson of St. Mary Bow, within our city of London, in our Realme of England now enjoyeth, and shall have such and the like profits of burialls in the said Church, as the same shall be limited in the instrument of dedication thereof.

Advowson of rectory in vestry.

Rectors to have certain dues.

And we further declare that the said Rector of the Parish of Trinity Church in communion of our Protestant Church of England within our city of New Yorke, as now established by our laws, shall and may forever hereafter have a common seale, to serve and use for all matters, causes, things and affairs whatsoever of them and their successors, and the same seale to alter, change, breake and make new from time to time, at their will and pleasure, as they shall think fit. And further we will and ordaine, and by these presents do declare and appoint, that for the better ordering and manageing of the affairs and businesse of the said Corporation; there shall be annually and once in every year forever on the Tuesday in Easterweek two Church Wardens and twenty Vestrymen duly elected by the majority of votes of the inhabitants of the said Parish in communion as aforesaid, which Church Wardens and Vestrymen shall be from time to time subject to our laws and statutes now in force or hereafter to be made for the choice of Church Wardens, Overseers of the Poor and such other like Parish officers and other Parochiall dutyes within the said Parish in like manner as the inhabitants of any Parish within our Province are or might be subject and liable unto (except where it shall be otherwise hereby appointed.) And we do by these presents constitute and appoint Thomas Wenham and Robert Lurting the first Church Wardens of the said Parish and Caleb Heathcote, William Merritt, John Tuder, James Emott, William Morris, Thomas Clarke, Ebenezer Wilson, Samuel Burt, James Evetts, Nathaniel Marston, Michael Howden, John Crooke, William

Common seal.

Annual election of wardens and vestrymen.

Voters.

Vestry subject to laws.

First church wardens.

First vestrymen.

Sharpas, Lawrence Reade, David Jamison, William Huddlestone, Gabriel Ludlow, Thomas Burroughs, John Merritt, and William Janeway the first Vestrymen of the said Parish, to have and to hold and execute their said respective offices till the feast of Easther, [Easter] which shall be in the year of our Lord one thousand six hundred and ninety-eight; and the said Church Wardens shall have and receive such and the like church dutyes and perquisites as the Church Wardens of the said Parish of St. Mary Bow do, may, might or ought to receive and shall be accomptable for the same, and all other moneys as shall come to them as Church Wardens in such manner as Church Wardens of any other Parishes within our city of London are or ought to be.

Duties and perquisites.

Accountable for moneys.

And we further declare it to be our Royall will and pleasure that the Rector, Church Wardens and Vestrymen shall make the number of the whole to be twenty-three persons, and the said Vestrymen or any eleven or more of them whereof the Rector for the time being or his assistant or clarke by appointment and one of the Church Wardens to be two, shall and may have and exercise the like power and authority for the ordering and regulating the affairs of the said Corporation and Parish of Trinity Church as the Vestry of the said Parish of St. Mary Bow now have and exercise in reference to Parish affairs, and upon the death or other voidance of any such vestrymen they or any eleven or more of them shall and may elect a fit person, inhabitant and householder in the said Parish to supply the same. And we further ordaine and declare, that the Church Wardens for the time being shall not at any time dispose of any of the Pews, or places in Pews in the said Church, to any person not an inhabitant thereof, nor without the consent and allowance of the Vestrymen for the time being or any eleven or more of them. And our further will and pleasure is, and we by these presents declare, that the Rector of the said Parish for the time being shall and may by and with the consent of the said Vestrymen and Church Wardens for the time being or any eleven or more of them, whereof one of the Churche's Wardens to be one, from time to time nominate one able Protestant minister in Priest's orders to reside in the said Parish to be Preacher and assistant to the said Rector and his successors in the celebration of the Divine Offices of Praying and Preaching and other dutyes incident to be performed in the said Church and Parish, as the said Rector shall require of him, and likewise to nominate a fitt person to be Clarke of the said Parish and one or more Sexton or Sextons, to which Clarke or Sextons respectively there shall be such and the like dues, fees, perquisites and profits paid and allowed as shall be established by the said Rector, Church Wardens and Vestrymen in manner aforesaid, which said Preacher, assistant, Clarke and Sexton or Sextons and every of them shall

Regulation of affairs of the parish.

Vacancy of vestrymen.

Disposition of pews.

Assistant to rector, how appointed.

Clerk and sextons.

Their fees.

continue in his said place during his or their naturall lives, if they shall so long inhabit there, except for some offence or misgovernment by them or any of them committed and unlesse for cause reasonable proved they shall be displaced by the said Rector for the time being by and with the consent of the said Vestrymen or any eleven or more of them ; and that the Church Wardens of the said Parish of Trinity Church for the time being shall and are hereby required from time to time to pay the yearly sume of ten pounds to the Clerke to be appointed as aforesaid out of the profits and other the dutyes and perquisites to them accrueing in the said Church and Parish by four quarterly payments, that is to say on the feast of St. Michaell the Arch Angell, the birth of our Lord and Saviour Jesus Christ, the annunciation of the blessed Virgin Mary and St. John the Baptist or tenn days after every of the said respective feasts by equall and even portions. And we further ordaine and declare, that the said Church Wardens and Vestrymen or any eleven or more of them are by these presents authorised and required within the space and time of three hundred days next and after the sealing and enrolling of these presents to make or cause to be made an estimate in writing under the hand or hands of some sufficient person or persons qualified for the same of the charge and finishing the said Church and steeple and providing a clock and one or more bells for the same and other works necessary and requisite in and about the said Church and steeple, and of building a convenient house for the said Rector, and such sume or sumes of money as shall appear to them upon such estimate to be in their judgment competent to accomplish the premises and to satisfy and pay the debts incurred for or by reason of the said Church, shall be by them or any eleven or more of them charged upon all and every of the inhabitants in the said Parish, to be by them paid in seven years by twenty-eight quarterly and successive payments, the first whereof to commence and become payable to the Church Wardens for the time being, who are hereby authorised to receive the same at the first of the feast dayes aforesaid as shall happen after the assessing and taxing thereof, and the rest to be successively to them also quarterly paid at the successive feast dayes aforesaid until all the said twenty-eight quarterly payments shall be made and finished. And the said Church Wardens and Vestrymen or any eleven or more of them are hereby required and authorised within three hundred and sixty-five dayes next and after the sealing and enrolling of these presents to assess, tax and rate the first of the said quarterly payments after a pound rate or otherwise, as they shall think most reasonable, equall and meet, and in like manner to assess every other of the said quarterly payments within fourty dayes after the time of payment of the next preceding quarterly payment. All which said as-

Tenure of office of rector, clerk and sextons.

Salary of clerk.

Estimate to be made of expense of finishing church, &c.

Amount how to be raised.

Assessments to be confirmed.

sessments shall be confirmed and allowed by two Justices of the Peace within the said Parish and in communion of the said Church as aforesaid under their hands and seals and be collected by such persons inhabitants of the said Parish as by the said Vestrymen or any eleven or more of them shall from time to time under their hands and seals appoint.

Deficiency how raised.

And we further declare that if the estimate and computation to be made as aforesaid shall not be sufficient to discharge the debts incurred about the building and finishing of the said Church and Steeple and other the works hereby intended to be done, the said Vestrymen or any eleven or more of them shall and may charge and assess such additionall sum or sums upon the said inhabitants of the said Parish in communion as aforesaid as shall be needful to perfect and accomplish the same so as such additionall sume together with the sume hereby charged and payable by the said twenty-eight quarterly payments exceed not in the whole the sume of five hundred pounds.

Amount limited.

Contracts to be registered in books.

And We further declare it to be our Royall will and pleasure that the church wardens of the said Parish of Trinity Church shall cause all the debts, credits and contracts made and to be made with or by the artificers and workmen employed or to be employed for any work or building to be made or done in or about the said Church Steeple and premises to be entered and registered in one or more book or books to be kept for that purpose, and the said Vestrymen or any eleven or more of them out of the money collected and paid to the said Church Wardens upon the said quarterly payments or by any other ways or means for the use aforesaid, shall in the first place pay and discharge or cause to be paid and discharged, all such debts as shall become due unto the artificers and workmen imployed or to be imployed in and about the finishing the said Church Steeple, house and premises, and shall issue and pay or cause to be issued and paid to the said artificers and workmen as aforesaid all and every sume and sumes of money now or hereafter due and payable unto them their executors, administrators or assigns, proportionably according to the dates of the registering of their debts and credits as aforesaid with moderate interest if need shall be for their forbearance thereof.

What debts to be first paid.

Sum to be raised to pay assistant preacher, and for contingent charges.

And We further declare that the Church Wardens of [for] the said Parish for the time being together with any eleven or more of the said Vestrymen shall upon the Tuesday of [in] Easter [easter] week yearly forever, or at any time within tenn days after the said Tuesday tax, rate and assess the yearly sume of thirty pounds upon the Inhabitants of the said Parish in Communion as aforesaid, for the payment of the Preacher assistant to be nominated and appointed as aforesaid, and for the paying and defraying the other contingent charges that may yearly accrue within the said Parish which said assessment

shall be confirmed and allowed in such manner as other the assessments hereby appointed to be made as aforesaid, and be collected and paid yearly to the Church Wardens for the time being by such person and persons as the said Church Wardens and Vestrymen shall appoint at the four usuall, or times of the year before mentioned, the first payment to begin and be made at the [that] feast day next and after the said preacher assistant shall be presented and enter to assist the said Rector in the said Church in manner aforesaid, and the said Church Wardens or either of them shall pay the said yearly sume of thirty pounds over and above all charges and deductions for collecting the same to the said Preacher assistant for the time being to be nominated as aforesaid upon the said four usuall feasts or terms in the year by even and equal portions.

Rates for repairing church, &c

And We further ordaine and declare it to be our Royall will and pleasure that the said Church Wardens, together with eleven or more of the Vestrymen of the said Parish shall and are hereby authorised from time to time to make rates and assessments in manner aforesaid for the repairing and amending the said Church, Steeple, Cemetery or church yard of the said Parish when need shall be, the said rates taxes and assessments for repairing and amending the church and premises to be paid to the said Church Wardens of the said Parish and those and all other the said last mentioned taxes rates and assessments to be made and collected, confirmed and allowed as aforesaid, and moreover of our special grace certaine Knowledge and meer motion, We do give grant ratify and confirm unto the said Rector and inhabitants of our said City of New-Yorke in communion of our Protestant Church of England as now established by our laws that the said Church and Coemetry or Church yard scituate lying and being within our said City of New-Yorke as aforesaid, shall be the sole and only Parish Church and Church yard of our said City of New Yorke. And our Royal pleasure is and we by these presents do declare that the said Rector of the said Parish Church is a good sufficient Protestant Minister according to the true intent and meaning of the said Act of Assembly made in the aforesaid fifth year of our Reigne entitled an Act for the settling of a ministry, &c., and as such We do further of our like speciall grace certaine Knowledge and meer motion give grant Ratifye endow appropriate and confirm unto the said Rector of the Parish of Trinity Church within our said City of New Yorke and his successors forever the aforesaid yearly maintainance of one hundred pounds directed by the said Act of Assembly to be yearly laid assessed and paid unto the said sufficient Protestant minister for his yearly maintainance, to have and to hold the said yearly maintainance of one hundred pounds aforesaid unto him the said Rector of the Parish of Trinity Church within our said City of New-Yorke and his successors to the

The said church and cemetry to be the only parish church and church yard.

Confirmation of endorsement of 100 pounds for rector.

sole and only proper use benefit and behoofe of him the said Rector of the Parish of Trinity Church within our said City of New Yorke and his successors forever. And We doe by these presents strictly charge require and command the Church Wardens and Vestrymen yearly constituted elected and appointed by the aforesaid Act of Assembly made as aforesaid that they faithfully truly and without fraud annually and once in every year forever levey assess and collect the said yearly maintainance of one hundred pounds current money aforesaid according to the rules directions and clauses in the said Act of Assembly mentioned and under the pains and penaltyes therein contained and that the said Church Wardens mentioned in the aforesaid Act of Assembly do annually in four quarterly payments pay the said yearly maintainance of one hundred pounds leveyed, assessed and collected as aforesaid unto the said Rector of the Parish of Trinity Church and to his successors forever as of right they ought to do without any delay, lett, hindrance refusall disturbance or molestation whatsoever as they and every of them will answer the contrary under the pains and penaltyes in the said Act of Assembly ordained. And We further declare that upon any neglect or refusall of the said Church Wardens and Vestrymen (appointed by the said act) of their levying assessing collecting and paying the said yearly maintainance of one hundred pounds as aforesaid that it shall and may be lawfull for the said Rector or incumbent of the said Parish for the time being to prosecute the said Church Wardens and Vestrymen in an action of debt in any of the Courts of Record within our said province wherein no Essoine, protection or wager of law shall be allowed any thing contained in the said Act to the contrary hereof in any wayes notwithstanding.

How to be raised.

And paid.

Vestry liable to action for neglect to raise and pay above sum.

And We do of our like speciall grace certaine Knowledge and meer motion give and grant unto the said Rector and inhabitants of our city of New Yorke in communion, &c., full power and authority from time to time to appoint, alter, and change such days and times of meeting as they shall think fitt, and to choose, nominate and appoint so many others of our Leige people as they shall think fitt, and shall be willing to accept the same to be members of the said church and corporation and body Politicque and them into the same to admitt and to elect and constitute such other officer and officers as they shall think fitt and requisite for the orderly manageing and dispatching of the affairs of the said Church and corporation and their Successors, and from time to time to make, ordaine and constitute or repeale such rules, orders and ordinances for the good and welfare of the members of the said church and corporation, so that those rules orders and ordinances be not repugnant to the laws of our Realme of England and of this our province. And We

Power to alter times of meeting.

To admit other members of the corporation, and to constitute other officers.

To make rules and ordinances.

further declare, and by these presents doe give, grant, lycence and permitt unto the said Rector and inhabitants, &c., that the said Church Wardens and Vestrymen, or any other appointed by them may from time to time and at all times hereafter upon the Lords day after divine service, or at any other time or times when they shall think [it] convenient take and receive the free and voluntary gifts, alms, contributions, and offerings of all or any of our loving subjects, which collections, gatherings or receivings shall be imployed by them for and towards the finishing of the said church steeple and premises, or any other pious and charitable worke as to them shall seeme meete and convenient, any Statute or Laws to the contrary hereof in any wayes notwithstanding. To have and to hold, all and every of the premises, together with all and singular the rights, customs, usages, benefits, members, advantages, advowsons, presentations, Mortuarys, oblations, offerings, ffees, perquisites, profits, Royaltyes, hereditaments and appurtenances whatsoever unto the said church, church yard and premises belonging, or in any wise appertaining unto them the sd. Rector and inhabitants of our said city of New Yorke in communion of the Protestant Church of England, as now established by our laws and their successors To the sole and only use, benefit and behoofe of them, the said Rector, inhabitants, &c., and their successors forever. To be holden of us, our heirs and successors in ffree and common soccage as of our mannour of East Greenwich in our county of Kent within our Realme of England, yielding, rendering, and paying therefor yearly and every year unto us, our heirs and successors on the feast day of the annunciation of our blessed Virgin Mary at our City of New Yorke the yearly rent of one Pepper Corne, if the same be lawfully demanded in lieu and stead of all other rents, dues, dutyes and demands whatsoever for the premises.

To receive voluntary gifts by collections for certain purposes.

Grant to be perpetual.

Nature of tenure.

Yearly rent if demanded.

And lastly, We do for us, our heirs and successors, ordain and grant unto the said Rector and inhabitants, &c., and their successors by these presents, that these our grants shall be firme, good effectuall and available in all things in the law to all intents, constructions and purposes whatsoever according to our true intent and meaning herein before declared, and shall be construed, reputed and adjudged in all cases most favorable, and on the behalfe and for the best benefite and behoofe of the said Rector and inhabitants, &c., and their successors, altho expresse mention of the true and yearly value, uncertainty of the premises, or any of them in these presents are not named, or any statute, act, ordinance, provision, proclamation, or restriction heretofore had, made enacted, ordained, provided, proclaimed or [and] restrained, or any other matter, clause, or thing whatsoever, to the contrary hereof in any wayes notwithstanding. And We further declare it to be our Royall Will and pleasure that nothing herein con-

To be favorably construed for benefit of corporation.

Not to affect previous grants to other churches.

tained nor any clause or article here [herein] above mentioned shall be construed or taken to abridge or take away any right privilege, benefite, liberty or Lycence that we have heretofore granted unto any church in communion of our Protestant faith within our said Province of New Yorke, any thing contained herein to the contrary hereof in any wayes notwithstanding. In testimony whereof, wee have caused the Great seale of our said Province to be hereunto affixed. Witnesse our trusty and well beloved Benjamin Ffletcher, our Captaine Generall and Governour in Chiefe of our Province of New Yorke, and the territoryes and tracts of land depending thereon in America and Vice-Admirall of the same our Lieuttennant and Commander in Chiefe of the Militia and of all the forces by sea and land within our Collony of Connecticutt and of all the fforts and places of strength within the same in Council at our ffort in New Yorke the Sixth day of May, in the ninth year of our Reigne Annoq. Domi. 1697.

BEN. FFLETCHER.

By his Excellenceyes command,
DAVID JAMISON, D. Sec'ry.

STATE OF NEW YORK, SECRETARY'S OFFICE.

I have compared the preceding with a certain Instrument in writing recorded in this office in Book of Patent's No. 7, page 82, &c., and do certify that the same is a correct transcrip therefrom, and of the whole of said Instrument.

ARCH'D CAMPBELL,
Dep. Sec. of State.

Albany, June 20, 1845.

COLONIAL ACT OF 1704.

(From Van Schaack's edition, p. 60.)

CHAPTER CXLI.

[Repealed by Sec 6 of act of 17th April 1784: see *post*.]

An Act for granting sundry Privileges and Powers to the Rector and Inhabitants of the City of New York, of the Communion of the Church of England, as by Law established. Passed the 27th of June, 1704.

Whereas, the Inhabitants of the city of New-York, of the Communion of the *Church of England*, as by Law established, for some years past, by voluntary contribution of themselves and others, favoring the Church's Interest, have erected a Church within the said City, for the service and worship of Almighty God, called, and known by the name of *Trinity Church*; and have purchased and procured, and do

quietly and peaceably hold, use, exercise, and enjoy the said Church, with the Cemetry or Burying-place, and a certain Tract of land belonging thereunto, bounded easterly upon the street commonly called the *Broad-way*, containing in Breadth, on the West side of the said street, three hundred and ten foot, or thereabouts, from the north-east corner of the ground commonly called the *Queen's Garden*, to the land of *John Hutchins*, Esq.; thence by a straight line along the north side of the said Burying-Place, continued to Low Water Mark of *Hudson's River;* thence by a line Southward along the said River three hundred ninety and five foot, all *English* measure; and from thence by the line of the said Garden easterly, to the place where it begun; together with sundry Powers, Rights, Privileges, and Preheminences, necessary for the manageing of the affairs of the said Church; which by the Blessing of God has been attended with great success; and the congregation thereof being much increased, calls for suitable Encouragement; To the end therefore, that such religious work may be founded upon some lasting foundation, grow up and become fruitful, to the praise and glory of God, the good example of others, and the benefit of their posterity and successors.

1. Be it enacted *by his Excellency* Edward *Viscount* Cornbury, *Captain General and Governor-in-Chief of the Colony of* New-York, *by and with the consent of her Majesty's Council, and this General Assembly, and by authority of the same*, That from henceforward forever hereafter, the Rector and Inhabitants of the said City of *New-York*, in Communion of the Church of *England*, as by law established and their successors, be, and shall be able and capable in the law, for the maintainance and recovery of their estates, rights, and privileges whatsoever, to sue, and be sued, plead and be impleaded, to answer and be answered unto, defend and be defended by the same name of *the Rector and Inhabitants of the City of* New-York, *in Communion of the Church of England as by Law established*, in all suits, Quarrels, Controversies, Causes, Actions, Matters and Things whatsoever, in any Court or Courts of Common Law or Equity whatsoever; and that by the same Name they and their Successors do and shall lawfully have, hold, use exercise, and enjoy all and singular their said Church Burying Place, and Land thereto belonging, with the Hereditaments and Appurtenances, heretofore by them and their predecessors by whatsoever Name or Names the same were purchased and had, or to them given or granted, and by them or any of them used and enjoyed for the Uses aforesaid, to them and their Successors, to the sole and only proper Use and Benefit of the said Rector and Inhabitants, and their Successors forever, in as firm and ample Manner, in the Law, as if the said Rector and Inhabitants had been legally incorporated, and made capable in the Law

to take, receive, purchase, have, hold, use, and enjoy the same, at, and before the purchasing, taking, receiving, and holding of the said Cemetry, and Lands thereunto belonging, and lawfully had, held, and enjoyed the same; any Law, Usage, or Custom to the contrary thereof, in anywise notwithstanding.

II. And be it further enacted *by the Authority aforesaid*, That the said Rector and Inhabitants and their Successors by the same Name from henceforward, forever, have, and shall have full Power, good Right, and lawful Authority, to have, take, receive, acquire and purchase, and use, and enjoy Lands, Tenements, and Hereditaments, Goods and Chattels; and to demise, lease and improve the said lands tenements and hereditaments, and to use and improve such goods and Chattels, to the benefit of the said Church, and other pious uses, not exceeding *Five Hundred Pounds* yearly Rent, or Income; any Law, Usage, or Custom to the Contrary hereof in any Wise notwithstanding. And it shall and may be lawful for the said Rector and Inhabitants, and their Successors to finish and adorn the said Church, alter enlarge, and amend the same or any part; as also to erect and build a convenient dwelling House, Garden, and Appurtenances, for the Use of their Rector for the Time being, a Vestry Room, Charnel House, and other necessaries of the said Church; and to enclose, support, and maintain the same from Time to Time, as there shall be need thereof.

III. And be it further enacted *by the Authority aforesaid*, That the said Church and Premises, be from henceforward forever set apart and separated for the Religious Uses aforesaid; and that the Patronage and Advowson of the said Church, and Right of Presentation (after the Death of the Present Rector, or upon next Avoidance, and forever thereafter) shall belong and appertain to the Church-Wardens, and Vestrymen of the said Church, annually elected or to be elected, by the Inhabitants aforesaid, in Communion as aforesaid, in Manner hereafter mentioned, and expressed, or to the major part of said Church-Wardens and Vestry men for the Time being, whereof one Church-Warden always to be one; which Rectors shall be instituted and inducted into the said Church, in such manner, and always as shall be most suitable and agreeable to her Majesty's Instructions to his Excellency the Governor of this Colony for the Time being, and that Canonical Right and Authority, which the Right Reverend Father in God, *Henry* Lord Bishop of *London* and his Successors, hath, and shall have over the said Church.

IV. And be it further enacted *by the Authority aforesaid*, That the succeeding Rector or Incumbent of the said Church, next after the Death or other Avoidance of Mr. William Vesey, present Rector and his Successors forever, be, and shall be instituted, authorized, and empowered, to have, and receive, and shall have, and receive the sum of

One Hundred Pounds yearly, raised and levied upon the Inhabitants of the said City, for the maintenance of a good sufficient Protestant Minister in the City aforesaid, by virtue of an act of General Assembly, of this Colony, made and enacted in the fifth year of the Reign of King William and Queen Mary, entitled, *An act for settling a Ministry, and raising a Maintenance for them in the City of* New-York, *County of* Richmond, West-Chester *and* Queen's County: any Law, Custom, or Usage, to the contrary thereof in any wise notwithstanding.

V. And be it further enacted *by the Authority aforesaid*, That it shall and may be lawful for the said Rector and Inhabitants, in Communion as aforesaid, and their Successors, forever hereafter, to have, and use a common Seal; and the same to alter, break, and new make at their discretion.

VI. And be it further enacted *by the Authority aforesaid*, That it shall and may be lawful for the Inhabitants aforesaid, to assemble and meet together on Tuesday in *Easter* Week, annually at the said Church, to chuse two Church-Wardens, and Twenty Vestry-men, Communicants of the said Church, to serve and officiate for the next ensuing year; by the Majority of the voice of the said Communicants, so met and not otherwise; which said Church-Wardens so chosen, and hereafter to be chosen annually, have, and shall have like Power, and Authority to do, execute and perform their said Offices, respectively as Church-Wardens and Vestry-men in *England* have, unless some particular difference may happen, by the express power and direction of this present Act of General Assembly. And it shall, and may be lawful for the said Church Wardens, or one of them at any Time or Times, and so often as shall be needful, to call a meeting of the Vestry-men of said Church, to meet the Rector for the Time being, if any there be, and Church Wardens or one of them; which said Rector and Church Wardens or one of them, and Majority of the Vestry-men, for the time being, have, and shall have Power to make such Rules and Orders, for managing the affairs of the said Church as they or the said Rector and one Church Warden, with the Major number of the Vestry-men, so, from Time to Time met and assembled, shall agree upon; which said majority of Vestry-men together with the Rector and one Church Warden at least, shall have the sole Disposition and ordering of all payment of the Church's Monies; all which Rules, Orders and payments shall be fairly entered and kept in books for that purpose; *Provided*, *nevertheless*, in case of the Death of the said Rector, and before the said Church be supplied with another, that the same Powers and Authorities relating to the making of Rules and Orders, as also the Disposition and payment of the Church's Money, be fully invested in the Church Wardens for the time being, by and

with the Advice and Consent of the Major number of the whole Vestry-men, and not otherwise, to be entered and kept in manner aforesaid; anything herein contained to the contrary thereof notwithstanding. And it shall and may be lawful for the said Church Wardens and Vestry-men, or Major Part of them, whereof, one Church Warden always to be one, without their Rector, to establish and regulate all Fees and Perquisites of their Rector, Clerk, Sexton, and other officers of said Church, provided none of the Fees or perquisites shall exceed the Fees or Perquisites usually taken in *England* by such Officers respectively, with regard to the Difference of the Value of Money in this Colony; as also for the said Church Wardens and Vestry-men or major part of them, with their said Rector to regulate and order the Perquisites of the Church growing and coming by the breaking of the ground in the Cemetry or Church Yard, and in the Church for burying the Dead, provided the Perquisites for breaking the ground in the Cemetry or Church Yard shall not exceed the Perquisites reserved and mentioned in the Grant thereof made by the Mayor, Aldermen, and Commonalty of the City of *New-York*, for the use of Trinity Church aforesaid; And in Case the Church Wardens or Vestrymen or any of them happen to die within the year it shall be lawful for the Inhabitants aforesaid, in Communion as aforesaid at any Time, upon such Emergency to meet at the said Church upon Notice given by the Rector, to elect and chuse others so qualified as aforesaid in their Room; who shall have full Power and Authority to do, execute and perform the Offices of such as they shall be so chosen to succeed, respectively, until the Time of next annual Election. And upon the Alteration of any Church Warden, by Death or otherwise the preceding Church Warden or Wardens of the said Church, shall deliver over to their Successors, in that Office all Deeds, Charters, Evidences, Books, Matters, and things whatsoever, belonging to the said Church, in their Custody by Indentures containing an Inventory of them, interchangeably under their Hands, which Indentures shall be exhibited and shewn to the Vestry-men at first Meeting, next after such annual Election, or other alteration happening.

VII. And be it further enacted *by the Authority aforesaid*, That it shall and may be lawful for the Rector for the Time being, of the said Church upon avoidance of such Officers, to nominate and appoint a Clerk, Sexton, or Sextons for the said Church; and that the Clerk, Sexton, or Sextons of the said Church be, and continue in their respective Offices during their natural lives, unless they voluntarily surrender, become incapable of serving by sickness or other infirmity, or misbehave themselves, in which case it shall be in the Power of the Rector of the said Church for the Time being, with Advice and Consent of the Church Wardens, or

one of them, and Vestry-men, or major part of them to displace or remove such Officer and Officers so misbehaving themselves, and not otherwise.

VIII. And lastly, be it enacted *by the authority aforesaid*, That this present Act, and the several Powers, Privileges and Liberties therein and thereby granted to the Rector and Inhabitants aforesaid, in Communion as aforesaid, and their Successors forever be, and shall be construed and understood most favorably for the Benefit of said Church, according to the true Intent and Meaning of his Excellency the Governor, and Council and Assembly aforesaid.

IX. Provided, Nevertheless, That this present Act of General Assembly, nor anything therein contained, shall be construed or understood to extend *to abridge or take away the Indulgency or Liberty of Conscience, granted or allowed to other Protestant Christians*, by an Act of Parliament, made in the first year of the reign of the late King William and Queen Mary of blessed memory, entitled *An Act for exempting their Majestie's Protestant subjects dissenting from the Church of England, from the penalty of certain Laws* or by any other Law or Statute of the Realm of *England* or this plantation; anything in this present Act contained or misconstrued to the contrary thereof in any ways notwithstanding.

EXTRACT FROM THE STATE CONSTITUTION OF 1777.

Section 36. And be it further ordained, That all grants of land within this State, made by the King of Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but that nothing in this Constitution contained shall be construed to affect any grants of land within this State, made by the authority of the said King or his predecessors, or to annul any charters to bodies politic, by him, or them, or any of them, made prior to that day.

ACT OF 1784.

An act for making such Alterations in the Charter of the Corporation of Trinity Church, as to render it more conformable to the Constitution of the State.

Passed 17th April, 1784.

(Taken from Vol. 1 of Jones and Varick's edition, p. 128.)

Preamble reciting charter.

WHEREAS by letters patent under the great seal of the then colony, and now State of New-York, bearing date the sixth day of May, in the year of our Lord one thousand six hundred and ninety-seven, many of the inhabitants of the city of New-York, members of the Church of England, were erected into a corporation, by the name and style of the Rector and Inhabitants of the City of New-York, of the Protestant Church of England, as by Law established.

Preamble reciting act June 27, 1704.

And whereas, on the twenty-seventh day of June, in the year of our Lord one thousand seven hundred and four, the Legislature of the then colony, and now State aforesaid, did pass a law, entitled, "An Act for granting sundry Privileges "and Powers to the Rector and inhabitants of the City of "New-York, in Communion of the Church of England, as "by law established."

Preamble.

And whereas those parts of the said charter which render necessary the induction of a rector to the said church by the governor, according to such instructions as he shall from time to time receive from his Britannic majesty, and such other parts of the said charter and law as admit and acknowledge that rights exist in the bishop of London, in and over the said church, are inconsistent with the spirit and letter of the constitution of this state.

Reciting parts of the charter inconsistent with the constitution.

Preamble.

And whereas certain other parts of the said charter and law, and of a certain other law passed the twenty-second day of September, in the year of our Lord one thousand six hundred and ninety-three, by the Legislature of the then colony aforesaid, entitled, "An Act for settling a Ministry, and "raising a Maintainance for them in the City of New-York, "and County of Richmond, Westchester, and Queen's "County," are contradictory to that equality of religious rights which is designed to be established by the constitution of this state :

Reciting other parts of the charter and laws against the religious equality designed by the constitution.

Part of the old charter, and law relating to the church repealed.

I. *Be it therefore enacted by the people of the state of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same*, that so much of the charter to the said body corporate above particularly mentioned, and so much of the said law first above particularly mentioned, as relate to the induction of the rector by the governor, to the powers or authority of the bishop of

London, in and over the said corporation, and to the collecting and levying a sum of money upon the city of New-York, for the use of the rector or incumbent in the said law mentioned, be, and they are hereby repealed and annulled; and that nothing in this law, nor no non-user, or mis-user, between the nineteenth day of April, one thousand seven hundred and seventy-five, and the passing of this law, shall be in any wise construed to annul, injure, repeal, or make void the said charter, or the said law first above particularly mentioned, where the same are not inconsistent with the constitution of this state.

Charter rights preserved, notwithstanding nonuser or misuser.

II. *And be it further enacted, and it is hereby enacted by the authority aforesaid*, that the church-wardens and vestrymen of the said corporation, or a majority of them, be vested with full powers to call and induct a rector to the said church, so often as there shall be any vacancy therein.

Church-wardens and vestrymen to call and induct a rector.

And whereas doubts have arisen on those parts of the said charter and law first above mentioned, which speak of inhabitants in communion of the said church of England; for removal whereof;

Preamble.

III. *Be it further enacted by the authority aforesaid*, that all persons professing themselves members of the Episcopal Church, who shall either hold, occupy, or enjoy a pew or seat in the said church, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the holy sacrament of the Lord's Supper, at least once in every year, being inhabitants of the city and county of New-York, shall be entitled to all the rights, privileges, benefits and emoluments, which in and by the said charter and law first above mentioned, are designed to be secured to the inhabitants of the city of New-York in communion of the Church of England.

Description of persons who shall be entitled to all the charter rights, &c.

And whereas by the events of war, and in consequence of the capture of the city of New-York by the troops of his Britannic majesty, many of the well-affected inhabitants of the said city, who by the said charter and law were entitled to vote for members of the said corporation, were prevented from the due exercise of their rights, and many others who remained in this city, were deterred from voting by well-grounded apprehensions of the forces of his Britannic majesty, then in possession of the said city; by reason whereof no elections were held, but under the influence of the government of Great Britain, then at open war with this state;

Preamble.

Describing who could not vote for members of the corporation.

And whereas the council appointed by the act of the Legislature, entitled, "An act to provide for the temporary "government of the southern parts of this state, whenever "the enemy shall abandon or shall be dispossessed of the "same, and until the Legislature can be convened," passed the twenty-third of October, one thousand seven hundred

Preamble.

Reciting the determination of the late council respecting the offices.

and seventy-nine, upon the petition of sundry persons, styling themselves members of the said church; and after a full hearing of certain other persons, claiming to be the church-wardens and vestrymen of the said church, reciting that there was, in the opinion of the council, reason to believe that the dissensions respecting the said church might materially endanger the peace of the said city, did, in effect, determine the said places of church-wardens and vestrymen to be vacant; and by their ordinance, dated the twelfth day of January, one thousand seven hundred and eighty-four, did vest the estate, real and personal, of the said corporation, in James Duane, Francis Lewis, Lewis Morris, Isaac Sears, William Duer, Daniel Dunscomb, Anthony Lispenard, John Rutherford, and William Bedlow, to be retained and kept by them, or any five of them, until such time as further legal provision should be made in the premises;

And estate of the corporation vested in nine persons.

Preamble.

And whereas it appears, that the following persons have been nominated and chosen, by a very respectable number of the members of the said corporation and society, as church-wardens and vestrymen, and by their humble petition have prayed that the said persons may be appointed as such.

Present church wardens and vestrymen appointed.

IV. *Be it therefore further enacted, and it is hereby enacted by the authority aforesaid*, that James Duane and Robert R. Livingston be the present church-wardens of the said corporation; and that Anthony Griffiths, Hercules Mulligan, Marinus Willet, John Stevens, Robert Troup, Thomas Tucker, Joshua Sands, Richard Morris, Francis Lewis, Lewis Morris, Isaac Sears, Daniel Dunscomb, William Bedlow, William Duer, John Rutherford, Anthony Lispenard, Thomas Grennell, William Mercier, Thomas Tillotson, and Christopher Miller, be the vestrymen of the said corporation; the said church-wardens and vestrymen to hold their places until the first usual day of election for church-wardens and vestrymen, which shall be held after Easter Sunday, which will be in the year of our Lord one thousand seven hundred and eighty-five; and that in the mean time in case of any vacancy by death or resignation of the rector, or either of the church-wardens or vestrymen, such vacancy to be filled up by the remaining church-wardens and vestrymen, in such manner as is prescribed in and by the charter and law constituting the said corporation as aforesaid.

Their continuance in office.

Vacancies how to be filled up.

Proviso.

V. *Provided nevertheless, and be it further enacted, by the authority aforesaid*, that nothing in this act contained, shall be construed, deemed, or taken to prejudice or injure the right or title of any person or persons whatsoever, to any of the lands or tenements occupied or claimed by the corporation aforesaid.

Saving the right or title of claimants.

And in order fully to carry into full effect those parts of the constitution of this state, which declare that the free exercise and enjoyment of religious profession and worship,

without discrimination or preference, shall for ever hereafter be allowed within this state to all mankind, and that all acts of the Legislature of this state while a colony, and all parts thereof which may be construed to establish or maintain any particular denomination of christians, or their ministers, be abrogated and rejected as repugnant to the said constitution.

Preamble.

And in order to remove all doubts which may arise in the minds of any persons with respect to the continuance, force, and effect of a certain act of the Legislature of this state while a colony, passed on the twenty-second day of September, one thousand six hundred and ninety-three, entitled, "An Act for settling a Ministry, and raising a Maintenance "for them in the City of New York, County of Richmond, "Westchester, and Queen's County;" and also of one other act, passed on the twenty-seventh day of June, one thousand seven hundred and four, entitled, "An Act for "granting sundry Privileges and Powers to the Rector and "inhabitants of the City of New-York, of the Communion "of the Church of England, as by Law established;" and also of another act, passed on the fourth day of August, one thousand seven hundred and five, entitled, "An Act for the "better explaining and more effectually putting in Execution "an Act of General Assembly, entitled, An Act for settling "a Ministry, and raising a Maintenance for them in the City "of New-York, County of Richmond, Westchester, and "Queen's County;" and also of one other act, passed on the twenty-seventh day of July, one thousand seven hundred and twenty-one, entitled, "An Act for the more equal and "impartial assessing the Minister and Poor's Tax, to be "raised within the City and County of New-York, Queen's "County, Westchester County, and the County of Rich-"mond;" and also of one other act, passed the twenty-first day of September, one thousand seven hundred and forty-four, entitled, "An Act to alter the Time of electing Ves-"trymen and Church-wardens in Richmond County;" and also certain parts of one other act, passed the twenty-ninth day of November, one thousand seven hundred and forty-five, entitled, "An Act to enable the Inhabitants of the City "of New-York, to choose annually two Vestrymen for each "respective Ward within the said City," which do grant certain Immunities, Emoluments, and Privileges to the Episcopal Church, or that mode of Religious Worship, commonly called the Church of England, in the City and County of New-York, and the Counties of Richmond, Queen's and Westchester, and do establish and maintain the Ministers of that Denomination within the said Counties; and do also declare or imply a pre-eminence or distinction of the said Episcopal Church, or Church of England, over all other churches and other religious denominations.

Reciting certain acts.

Implying a pre-eminence of the Church of England above others

VI. *Be it therefore further enacted by the authority aforesaid*, that the said acts for settling the ministry, and raising a maintenance for them in the city of New York, counties of Richmond, Westchester, and Queen's county; *for granting sundry privileges and powers to the rector and inhabitants of the city of New-York, of the communion of the Church of England, as by law established*; for the better explaining and more effectually putting in execution an act of the General Assembly, entitled, An Act for the settling the Ministry and raising a Maintenance for them in the city of New-York, County of Richmond, Westchester, and Queen's County; for the more equal and impartial assessing the Minister and Poor's Tax, to be raised in the City and County of New-York, Queen's County, Westchester County, and the county of Richmond; for altering the Time of electing Vestrymen and Church-wardens in Richmond County; and also such certain parts of the act for enabling the inhabitants of the city of New-York to choose annually two vestrymen for each respective ward within the the said city, as do imply such pre-eminence and distinction, be, and are hereby declared to be fully and absolutely abrogated, abolished, annulled, repealed, and made void, as inconsistent with, and repugnant to the constitution of this state: And it is hereby further declared, that nothing in this act contained shall in any wise be construed or understood to give any kind of pre-eminence or distinction to the Episcopal mode of religious worship within this state; but that an universal equality between every religious denomination, according to the true spirit of the constitution, towards each other, shall for ever prevail.

Such acts repealed.

Equality between religious denominations.

VII. *And be it further enacted by the authority aforesaid*, that nothing in this act contained, shall be deemed, esteemed, adjudged, or construed, to enlarge or confirm any right, power, or authority, but such as the said corporation legally had, held, and enjoyed on the nineteenth day of April, one thousand seven hundred and seventy-five, and such other powers, rights and authorities as are expressly given by this act.

Confirmation of powers of corporation.

ACT OF 1788.

[Taken from vol. 2 of Jones and Varick's edition, p. 346.]

An Act to enable the Corporation of Trinity Church in the city of New-York to assume the name therein mentioned.

Passed 10th March, 1788.

Preamble reciting act 27th June, 1704.

Whereas the corporation of Trinity Church in the city of New-York, were by an act of the Legislature of the late Colony of New-York, passed the twenty-seventh day June, in the year one thousand seven hundred and four, enabled to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, by the name of the Rector and inhabitants of the city of New-York, in communion of the Church of England, as by law established. And whereas, the said act was repealed by the Legislature of this State, on the seventeenth day of April, in the year one thousand seven hundred and eighty-four, but the said Corporation have continued to use the name therein specified, and by their humble Petition to the Legislature of this State, have prayed that they may be enabled to assume and use the name of "The Rector and Inhabitants of the city of New-York in communion of the Protestant Episcopal Church in the State of New-York;" therefore

And its repeal.

Be it enacted, by the people of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the said corporation shall and may, from and immediately after the passing of this act, take and use the name of "the Rector and Inhabitants of the city of New-York in communion of the Protestant Episcopal Church in the State of New-York," and by the same name shall be capable to sue and be sued, plead and be pleaded, answer and be answered unto, defend and be defended, and that all grants, deeds, and conveyances, made to or by the said corporation, between the said seventeenth day of April, in the year one thousand seven hundred and eighty-four, and the passing of this act, wherein they are named or mentioned by the name of the Rector and Inhabitants of the city of New-York in Communion of the Church of England, as by law established, or any other name or names, shall be good, valid, and effectual in the Law, in like manner as they would have been if the said act passed the twenty-seventh day of June, in the year one thousand seven hundred and four, had never been repealed, or as they would respectively have been if the said corporation had been properly named in such grants, deeds, or conveyances.

New name of corporation.

Titles confirmed.

PETITION OF CORPORATION OF TRINITY CHURCH,

APPLYING FOR THE ACT OF 25th JANUARY, 1814.

*"*To the Honorable the Legislature of the State of New-York:*

The Petition of the Rector and Inhabitants of the City of New-York in communion of the Protestant Episcopal Church in the State of New-York:

Respectfully showeth:

That so long ago as in the year one thousand six hundred and ninety-seven, your Petitioners were incorporated by letters patent under the great seal of the colony of New-York, and have ever since continued to be a body politic and corporate, by virtue of their said charter.

That at the time of granting the same, it was contemplated that Trinity Church therein mentioned, should be the sole and only parish church of the Protestant Episcopal denomination, in the said city, and that in fact it continued to be so until the Revolution, by which the independence of the United States was obtained, and for a number of years after that memorable epoch.

That soon after the revolution above mentioned, an act of the Legislature passed for making such alterations in the charter of the corporation of Trinity Church as to render it more conformable to the constitution of the State; by one clause whereof all the rights, privileges, benefits and emoluments which in and by the said charter were designed to be secured to the inhabitants of the City of New-York in communion of the Church of England, were conferred upon all persons professing themselves members of the Episcopal Church, who should hold, occupy, or enjoy a pew or seat in the said Church, and should regularly pay to the support of the said Church, and such others as should in the said church partake of the holy sacrament of the Lord's Supper at least once in every year, being inhabitants of the said city.

That since the passing of the act [above referred to, the pew holders of Trinity Church and of the churches or

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* The determination to apply to the Legislature appears upon the minutes of the Vestry of the 4th of January, 1813, in the following form:
"Resolved, That *Richard Harrison, David M. Clarkson, Thomas Barrow, Robert Troup, Jacob LeRoy, Peter Augustus Jay, and Thomas L. Ogden* be a Committee on the State of the Church, with full power to make such application to the Legislature at its ensuing session, relative to the affairs of this Corporation, as the said Committee shall judge to be proper."

chapels belonging to the said corporation, and the regular communicants therein, have been the only persons admitted to vote at elections for church-wardens and vestrymen of the said corporation according to the just and fair construction contemporaneously and ever since given to the said act.

Your Petitioners beg leave further to show, that in consequence of the rapid and unexampled increase and prosperity of our country since the said revolution, and the corresponding growth and population of the City of New-York, Trinity Church, aforesaid, with the churches and chapels belonging to its corporation, became insufficient for the accommodation of all the inhabitants of the said city who professed themselves members of the Protestant Episcopal Church, or wished to become so, on which account, and for a variety of other reasons not necessary to be suggested, numerous persons of this description have been induced from time to time, to form themselves into distinct corporations, each having its own peculiar endowments and places of worship, with rectors and other officers of their own choice, totally independent of any control or interference of your Petitioners.

That a number of such religious corporations have accordingly been organized as the law directs, some with and some without the concurrence of your petitioners; to all which your Petitioners have made liberal donations, and with whose internal concerns your Petitioners or any of the members of the corporation of Trinity Church, as such, do not claim any right to intermeddle; nor do the said corporation possess or claim any right for themselves or their members to vote in the elections, or regulate the affairs of Trinity Church.

Nevertheless, a few individuals belonging to such separate corporations, have recently pretended to claim that right, and at the last annual election of church-wardens and vestrymen of Trinity Church, held in the month of March, in the year 1812, two or three persons being members of incorporated churches, separate and distinct from your Petitioners, tendered themselves as voters; but their votes under an ordinance previously passed by your Petitioners, were rejected, and no measures have been yet taken to enforce or establish the right so claimed.

It must be obvious, however, that attempts of this nature cannot fail to produce strife and litigation, and to foster and keep alive pretensions of the most unreasonable nature and of the most mischievous tendency.

Your Petitioners are, moreover, sensible that since the formation of such distinct corporations, the corporate name by which your Petitioners are designated has become inapplicable, and ought to be changed; as they do not compre-

hend in their body all the inhabitants of the city of New-York who now profess to be of the Protestant Episcopal Church; and your petitioners are further convinced that it has become essential to the peace and harmony of said church, that all doubts respecting the persons entitled to vote for church-wardens and vestrymen of Trinity Church, which may exist or arise in consequence of the said separate incorporations, should be finally obviated and settled.

Your Petitioners beg leave further to represent, that the law which requires religious corporations in New-York, Albany, and Schenectady, to exhibit an inventory and account of their estates and revenues at certain periods, is attended with considerable expense and trouble, without producing any valuable effects; that after such inventory and account has once been exhibited it cannot be useful to exhibit it again, unless the corporation should acquire further estates; and that as far as the corporation of Trinity Church is concerned, they have hitherto complied with the law, and hold no property (their communion plate and church furniture excepted) other than what they held and were possessed of long before the said revolution, and are legally entitled to hold by the charters and grants of the ancient government, confirmed and established by the Legislature of the State; though your Petitioners have greatly diminished that property by grants and donations to Columbia College, to a free School which the Legislature has incorporated, to a Society formed for the promotion of religion and learning, and to many churches and religious societies, not only in the city of New-York but elsewhere in differents parts of the State.

Your Petitioners therefore pray, that your Honorable Body will pass an Act for altering the name of their incorporation; and also to obviate and settle the questions that might arise in consequence of incorporating other Episcopal congregations in the city of New-York; and to do away the necessity of such inventory and account being exhibited more than once, unless upon the acquisition of additional property, by religious corporations.

And your Petitioners will ever pray, &c.

By order of the Corporation of Trinity Church in the city of New-York.

[L. S.] T. L. OGDEN, *Clerk.*

ACT OF 1814.

(Taken from Session Laws of 1814 : p. 5.)

An act to alter the name of the Corporation of Trinity Church, in New-York, and for other purposes.

Passed January 25th, 1814.

WHEREAS, at the time of passing the act, entitled, "An Act for making such alterations in the Charter of the Corporation of Trinity Church, as to render it more conformable to the Constitution of the State," and for some years afterwards, the said corporation, although possessing several places of public worship besides Trinity Church, was the only incorporated religious society in the city of New-York in communion of the Protestant Episcopal Church in this State ; but several other religious societies, of the same denomination, have since been formed in the said city, and duly incorporated. And whereas, by an act passed the tenth day of March, in the year of our Lord 1788, the said corporation of Trinity Church was enabled to take and use the name of "The Rector and Inhabitants of the City of New-York in Communion of the Protestant Episcopal Church in the State of New-York ;" which name the said corporation, by their petition to the Legislature, pray may be altered, as having now become improper ; and that such further legislative provisions may be made as to remove all doubts respecting their charter rights, occasioned by the formation of other religious societies in the said city of New-York. Therefore Recital.

I. *Be it enacted by the People of the State of New-York, represented in Senate and Assembly*, That from and after the passing of this act, the said corporation of Trinity Church, instead of their present name, shall take and use the name of "The Rector, Church-Wardens, and Vestrymen of Trinity Church, in the city of New-York." Corporate name.

II. *And be it further enacted*, That all male persons of full age, who, for the space of one year preceding any election, shall have been members of the congregation of Trinity Church aforesaid, or of any of the chapels belonging to the same, and forming part of the same religious corporation, and who shall hold, occupy, or enjoy a pew or seat in Trinity Church, or in any of the said chapels, or have partaken of the holy communion therein within the said year, and no other persons, shall be entitled to vote at the annual elections for the church-wardens and vestrymen of the said corporation. Persons qualified to vote.

III. *And be it further enacted*, That all grants and conveyances heretofore made, or that hereafter may be made by Corporation

may grant lands to other corporations.

the said corporation of Trinity Church of any of their lands, tenements, and hereditaments, to any other religious society, now incorporated, or that may hereafter be duly incorporated, shall be and the same are hereby declared to be valid and effectual, according to the tenor thereof; provided the annual value of such lands, tenements, and hereditaments, at the time of such grant or conveyance, together with the other estate real and personal of such other religious corporations, shall not exceed the annual sum which they are or may be respectively entitled to hold.

Proviso.

Recital.

IV. *And whereas* Saint George's Church, in the city of New-York, formerly called Saint George's Chapel was one of the chapels heretofore belonging to the corporation of Trinity Church, and the pew-holders in the said chapel, and others qualified according to the charter of Trinity Church and the laws of the State, were corporators of the said corporation of Trinity Church. And whereas, by mutual agreement and consent, the said chapel, called Saint George's Chapel, with such of the corporators of the corporation of Trinity Church as belonged thereto, or statedly worshipped in the said chapel, have been set off, and organized as a distinct religious society, and have incorporated themselves as such, under the name of the Rector, Church-Wardens, and Vestrymen of St. George's Church in the city of New-York: and the corporation of Trinity Church have granted to, or vested in the said newly incorporated religious society, the exclusive right to the said chapel, with the appurtenances, and which are now enjoyed accordingly: but doubts are entertained as to the legal validity of the said transaction; therefore,

St. George's Church declared a separate church from Trinity Church.

IV. *Be it further enacted*, That the separation of St. George's Chapel, in the city of New-York, from the corporation of Trinity Church, shall be, and hereby is confirmed: and that the said church now called St. George's Church, shall not at any time hereafter be held or taken to be a church or chapel belonging to Trinity Church, so as to qualify any of the congregation thereof to vote at the elections of church-wardens and vestrymen of Trinity Church above mentioned. And the said religious society called the rector, church-wardens and vestrymen of Saint George's Church, in the city of New-York, shall have a right to all the temporalities derived from the corporation of Trinity Church as aforesaid, and may enjoy the same in as full and beneficial manner as any such religious corporation can hold and enjoy its temporalities, howsoever the same may be acquired.

And to possess its separate estate.

Corporation may set apart other churches, &c.

V. *And be it further enacted*, That when, and as often as it shall seem expedient to the said rector, church-wardens, and vestrymen of Trinity Church, in the city of New-York, to divide the congregation or corporators belonging to the said corporation, it shall be lawful for them so to do, by set-

ting apart, as a separate church, any of the churches or chapels that may belong to and form part of the said corporation, provided the same be done with the assent of a majority of the persons entitled to vote as aforesaid, who shall belong to such church or chapel intended to be set apart, and who shall attend a meeting to consider of such separation after at least ten days' notice previously given for that purpose in the said church or chapel, during or immediately after divine service; and such separation so assented to, shall take effect according to the terms agreed upon between the parties; and the members of the congregation of such church or chapel so separated, shall immediately thereafter cease to be members of the corporation of Trinity Church above mentioned, and may proceed to incorporate themselves according to law as a separate congregation of the said Protestant Episcopal Church; and being so incorporated, may receive from the said corporation of the Trinity Church, any grant, conveyance, or gift of any chapel or other real or personal estate for its separate use, and may hold and enjoy the same accordingly, as fully and beneficially as any such religious corporation can hold and enjoy its temporalities, howsoever the same may be acquired. Proviso.

VI. *And be it further enacted*, That in every case where a church or religious society which has been, or may be duly incorporated, shall have exhibited such account and inventory as is specified in the ninth* section of the act entitled, "An Act to provide for the incorporation of religious societies," it shall not be necessary for such church or society again to exhibit any account and inventory, unless the said church or society, subsequently to such exhibition, shall have purchased or acquired any lands, tenements, or hereditaments within this state, any act, law or usage to the contrary notwithstanding: Provided always, that nothing in this act contained shall be construed to affect, or defeat the right of any person or persons, or of any body corporate, to the estate, real or personal, now held, occupied, or enjoyed by the corporation of Trinity Church. No religious society bound to file an inventory unless they acquire additional property.

[* The *tenth* section of the law as revised and re-enacted in 1813.]

Chancellor Lansing's Objections, and the vote of the Council of Revision thereon.

At a meeting of the Council of Revision at the Council Chamber in the Capitol, the 25th day of January, 1814, Present,

His Excellency, DANIEL D. TOMPKINS, President.

The Honorable { Mr. Chancellor Lansing, Mr. Chief Justice Kent, Mr. Justice Van Ness, Mr. Justice Spencer, Mr. Justice Yates.

The following objections having been reported by his Honor the Chancellor, at the last session, to the bill entitled, "An Act to alter the name of the Corporation of Trinity Church in New-York, and for other purposes," as improper to become a law of this State, viz:

"1. Because if the members of the several incorporated societies in communion of the Protestant Episcopal Church of this State, formed in the city of New-York after the passing of the act entitled, 'An Act for making such alterations in the charter of the Corporation of Trinity Church, as to render it more conformable to the Constitution of this State," have a right to vote at the annual elections for the church-wardens and vestrymen of Trinity Church, though not having been members of the congregation of Trinity Church within one year preceding any such election, or any of the Chapels belonging to the same; and forming part of the same religious corporation, and holding, occupying, or enjoying a pew in the said Trinity Church, or any of the Chapels thereof, or not having partaken of the holy communion therein, within such year, in consequence of the rights and privileges vested in them by the laws of this State and the incorporation of Trinity Church, the limitation of the right of election provided by the bill may divest or impair such right. And if any doubts exist respecting such right of suffrage, it is consistent with the salutary principles of the constitution of this State to refer them to judicial cognizance as the appropriate and legitimate resort of adverse claimants in controverted cases of that description. This principle has been heretofore recognized by the Council in an analogous case, and which received the sanction of the honorable the Assembly by an almost unanimous vote, as will appear by a reference to their Journals of the 7th of February, 1810.

"2. Because the Charter being a private grant, and it not appearing by recitals or otherwise, what are the existing doubts respecting the rights and privileges thereby given, the Council are deprived of the means of judging whether any vested corporate rights are not violated by the restrictions and provisions contained in this bill.

"3. Because the saving contained in the proviso to the last section of the bill 'of the right of any person or persons, or of any body corporate to the estate, real or personal, now held, occupied, or enjoyed by the Corporation of Trinity Church,' is nugatory, inasmuch as all such rights, so far as they respect the corporators, depend principally upon, and are inseparably connected with, the right and privilege of *being* a member of the Corporation, and voting for churchwardens and vestrymen who have the management and disposition of the temporalities belonging to the corporation."

The Council proceeded to consider the same, and the question being put thereon, there *were in favor of the objections*:

His Excellency, the Governor,
Mr. Justice Spencer,
Mr. Justice Yates.

Against them:

Mr. Chief Justice Kent,
Mr. Chancellor Lansing,
Mr. Justice Van Ness.

No order therefore was made thereon.

STATE OF NEW-YORK, }
Secretary's Office. }

I certify the preceding to be a true extract from the Minutes of the (late) Council of Revision of this State in this office.

ARCH'D CAMPBELL,
Dep. Sec. of State.

Albany, June 17, 1845.

PROCEEDINGS RELATIVE TO THE ACT OF 1814.

Extracts from Journals of the Legislature.

SENATE.

1813, MARCH 17.—The petition of the rector and inhabitants of the City of New-York in communion of the Protestant Episcopal Church, in the State of New-York, praying that an act may be passed altering the name of the incorporation, and settling the question that might arise in consequence of the incorporating other Episcopal Congregations in said city, and doing away the necessity of exhibiting an inventory and account of their estates and revenue more than once, unless upon the acquisition of additional property, was read.

Thereupon Mr. Haight moved for leave to bring in a bill pursuant to the prayer of the petitioners.

Ordered, That leave be given to bring in such bill.

Mr. Haight, according to leave, brought in said bill entitled, "An Act to alter the name of the Corporation of Trinity Church, in the city of New-York, and for other purposes," which eh was read the first time, and, by unanimous consent, was also read the second time, and committed to a committee of the whole.

March 18.—The memorial and remonstrance of the members of the Protestant Episcopal Church, inhabitants of the city of New-York, remonstrating against the passage of a law sanctioning the proceedings of Trinity Church in said city, or affecting the rights of the Episcopal inhabitants of that city who are members of the Congregation of Trinity Church, was read and referred to the committee of the whole, when on the bill entitled "An Act to alter the name of the Corporation of Trinity Church, in the city of New-York, and for other purposes."

March 20.—The Senate then resolved itself into a committee of the whole on the bill entitled "An Act to alter the name of the Corporation of Trinity Church in New-York, and for other purposes," and after some time spent thereon, Mr. President (De Witt Clinton) resumed the chair, and Mr. Van Buren, from the said committee, reported that the said committee had gone through the said bill, added a proviso, and agreed to the same, which he was directed to report to the Senate, and he read the report in his place, and delivered the same in at the table, where it was again read, and agreed to by the Senate.

Ordered. That the bill be engrossed.

March 25.—The engrossed bill, "An Act to alter the name of the Incorporation of Trinity Church, and for other purposes," was read a third time.

Debates were had thereon, and Mr. President put the question, whether the said bill should pass, and it was carried in the affirmative.

The yeas and nays being called for by Mr. Root, seconded by Mr. Van Buren, were as follows:—Affirmative, 21; Negative, 9.

HOUSE OF ASSEMBLY.

March 30.—Resolved, That the Attorney-General be, and he hereby is, requested to report to this house, whether, in his opinion, the passage of the bill entitled "An Act to alter the name of the Corporation of Trinity Church in New-York, and for other purposes," would in any wise defeat or vary any existing vested rights under the charter granted May 6th, 1697, to the Rector and inhabitants in communion of the Protestant Church of England as now established by our laws, or any acts altering the said charter.

March 31.—The house then resolved itself into committee of the whole on the bill entitled "An Act to alter the name of Trinity Church in New-York, and for other purposes;" and, after some time spent thereon, Mr. Speaker resumed the chair, and Mr. Adams, from the said committee, reported progress, and asked for and obtained leave to sit again.

Four o'clock, p. m.—The Attorney-General, in obedience to the resolution of the Honorable the Assembly of the 30th day of March, reported as follows, to wit:

That he has examined a printed copy of the charter granted in the year 1697 to the Rector and inhabitants of the city of New-York, as then established by law, and the acts altering the said charter, together with the bill referred to in the said resolution, entitled, "An act to alter the name of the Corporation of Trinity Church in the city of New-York, and for other purposes," and that he is of opinion that the passage of the said bill will not defeat or vary any existing vested rights under the said charter and acts. All which is respectfully submitted. Ab. Van Vechten, Attor. Gen.

April 2.—The house then resolved itself into a committee of the whole on the bill entitled "An Act to alter the name of the Corporation of Trinity Church in New-York;" and after some time spent thereon, Mr. Speaker resumed the chair, and Mr. R. Clark from the said committee, reported that in proceeding on the said bill, and after the same had been read in committee, Mr. Ross made a motion that the committee should agree to reject the same.

That debates were had thereon, and the question having been put, whether the committee would agree to the said motion, it passed in the negative.

That the yeas and nays were called for by Mr. Henderson, seconded by Mr. Taylor, and were as follows, to wit:—Negative, 66; Affirmative, 23.

Four o'clock, p. m.—The engrossed bill from the Honorable the Senate, entitled "An Act to alter the name of Trinity Church in the city of New-York, and for other purposes," was read the same time.

Resolved, That the bill do pass.

Ordered, That the Clerk deliver the bill to the Honorable the Senate, and inform them that this house have passed the same without amendment.

April 2, 1813.—Bill received by the Senate, and an order entered, that the Clerk deliver the same to the Council of Revision.

April 5, 1813.—Bill received by the Council of Revision, and referred to Chancellor Lansing, who reported objections thereto. See ante, p. 34.

EXTRACTS FROM

"*An Act to enable all the religious denominations in this State to appoint Trustees, who shall be a body corporate, for the purpose of taking care of the temporalities of their respective congregations, and for other purposes therein mentioned.*"

Passed 6th April, 1784.

[Taken from Jones and Varick's Editions of Laws, vol. 1, p. 104, p. 109.]

"1. *Be it therefore enacted by the people of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same*, That from and after the passing of this Act, it shall and may be lawful to and for the male persons of full age, belonging to any church, congregation, or religious society *not already established* within this State, or which may at any time hereafter be within the same, to assemble and meet together at the church, meeting-house, or other place where they statedly attend for divine worship, and then and there by plurality of voices, to elect, nominate, and appoint any number of discreet and prudent persons of their church, congregation, or society, not less than three, or exceeding nine in number, as Trustees, to take the charge of the estate and property belonging to their respective churches, congregations, or religious societies, and to transact all affairs relative to the temporalities of their respective churches, congregations, or societies: That at such election every male person of full age, who has statedly worshipped with the said church, congregation, or society, and has formerly been considered as belonging thereto, shall be entitled to a voice at such first election."

"XIV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful, to and for every religious corporation created by Letters Patent under the Great Seal of the Colony of New-York, to have, hold, occupy and enjoy, lands, tenements, goods and chattels of the yearly value of *one thousand two hundred pounds*, although the Letters Patent by which such corporation respectively were created, should contain a clause or clauses restricting and limiting the annual revenue and income of such corporation, at a sum less than *one thousand two hundred pounds;* any law, usage, or custom to the contrary in any wise notwithstanding."

EXTRACT FROM

"*An act to provide for the incorporation of religious societies.*

Passed March 27th, 1801.

[Taken from Kent and Radcliffe's edition, vol. 1, p. 336.]

Protestant Episcopal churches how incorporated.

§ 1. *Be it enacted by the People of the State of New-York, represented in Senate and Assembly*, That it shall be lawful for the male persons of full age, of any church or congregation in communion with the Protestant Episcopal church in this State, who shall have belonged to such church or congregation for the last twelve months preceding such election, and who shall have been baptized in the Episcopal church, or shall have been received therein either by the right of confirmation, or by receiving the holy communion, or by purchasing or hiring a pew or seat in said church, or by some [other] joint act of the parties and of the rector, whereby they shall have attached themselves to the Protestant Episcopal church, *and not already incorporated*, at any time to meet for the purpose of incorporating themselves under this act, and by a majority of voices, to elect two church wardens and eight vestrymen, and to determine on what day of the week called Easter week, the said offices of church wardens and vestrymen shall annually thereafter cease, and their successors in office be chosen; of which first election notice shall be given in the time of morning service on two Sundays previous thereto, by the rector, or if there be none, by any other person belonging to such church or congregation, and that the said rector, or if there be none, or he be necessarily absent, then one of the church wardens or vestrymen, or any other person called to the chair, shall preside at such first election, and together with two other persons, shall make a certificate under their hands and seals, of the church wardens and vestrymen so elected, of the day of Easter week, so fixed on for the annual election of their successors, and of the name or title by which such church or congregation shall be known in law; which certificate being duly acknowledged or proved by one or more of the subscribing witnesses, before the chancellor or one of the judges of the supreme court, or one of the judges of the court of common pleas of the county where such church or place of worship of such congregation shall be situated, shall be recorded by the clerk of such county in a book to be by him provided for that purpose, and that the church wardens and vestrymen so elected, and their successors in office of themselves, but if there be a rector, then together with the rector of such church or congregation, shall form a vestry, and be the trustees of such church or congregation; and such trustees and their successors shall thereupon by virtue of this act, be a body corporate by the

Annual elections of church wardens and vestrymen regulated.

name or title expressed in such certificate; and that the persons qualified as aforesaid shall, in every year thereafter, on the day in Easter week so to be fixed for that purpose, elect such church wardens and vestrymen, and whenever any vacancy shall happen before the stated annual election by death or otherwise, the said trustees shall appoint a time for holding an election to supply such vacancy, of which notice shall be given in the time of divine service, at least ten days previous thereto; and such election, and also the stated annual elections, shall be holden immediately after morning service, and at all such elections the rector, or if there be none, or he be absent, one of the church wardens or vestrymen shall preside and receive the votes of the electors, and be the returning officer, and shall enter the proceedings in the book of the minutes of the vestry, and sign his name thereto, and offer the same to as many of the electors present as he shall think fit, to be by them also signed and certified; and the church wardens and vestrymen to be chosen at any of the said elections, shall hold their offices until the expiration of the year for which they shall be chosen, and until others be chosen in their stead, and shall have power to call and induct a rector to such church or congregation as often as there shall be a vacancy therein: *Provided however*, That no meeting or board of such trustees shall be held, unless at least three days notice thereof shall be given in writing under the hand of the rector or one of the church wardens; and that no such board shall be competent to transact any business unless the rector, if there be one, and at least one of the church wardens and a majority of the vestrymen be present; and such rector, if there be one, and if not, then the church wardens present, or if both the church wardens be present, then the church warden who shall be called to the chair by a majority of voices, shall preside at every such meeting or board, and have the casting vote.

Trustees when and how to meet.

[The preceding section was re-enacted in the revision of 1813, in the same words, excepting omissions which are included in brackets, of certain words in the act of 1801, not contained in the act of 1813. See 2 Rev. Laws of 1813, p. 212, and vol 3. Rev. Stat. (2d edition,) p. 206.]

AMENDAMENTORY ACT OF 1819.

An act to amend the act, entitled "An act to provide for the incorporation of religious societies." Passed March 5, 1819. Chap. 33, p. 34.

§ 1. *Be it enacted by the People of the State of New-York, represented in Senate and Assembly*, That it shall be lawful for the male persons, of full age, belonging to any church, congregation or religious society, in which divine worship shall be celebrated according to the rites of the Protestant Episcopal church in this State, *and not already incorporated* at any time to meet for the purpose of incorporating themselves, and of electing church wardens and vestrymen, and to proceed to make such election, and to effect such incorporation in like manner as by the first section of the act hereby amended, is authorised to be done by persons possessing the qualifications therein specified : *Provided*, That no person not possessing those qualifications shall be permitted to vote at any subsequent election of church wardens and vestrymen.

§ 2. *And be it further enacted*, That all incorporations of churches or congregations heretofore formed or made under the first section of the act hereby amended, although by persons who may not have belonged to such churches or congregations for the last twelve months then preceding, shall be deemed valid and effectual, in like manner, as if formed or made by persons qualified according to the provisions of the same section.

§ 3. *And be it further enacted*, That it shall be lawful for each and every of the religious incorporations created, or to be created, within the city of New-York in pursuance of this act, or of the act hereby amended, to take and hold real and personal estate of the annual value or income of six thousand dollars, any thing contained in the fourth section of the act hereby amended to the contrary notwithstanding.

QUEEN ANNE'S GRANT.

Anne, by the grace of God, of England, Scotland, France and Ireland, Queen, Defender of the Faith, &c., To all to whom these presents shall come, or may concern, send greeting :

Whereas, the Rector and Inhabitants of the City of New-York, in communion of the Church of England as by law established, were (by an act of Assembly made in the third

year of our reigne, entitled An act granting sundry privileges and powers to the Rector and Inhabitants of the City of New-York, of the communion of the Church of England as by the law established,) incorporated by the name of the Rector and Inhabitants of the City of New-York in communion of the Church of England as by law established, and made persons corporate in the law to sue or to be sued in any action or matter whatsoever ; and by that name they and their successors should hold and enjoy the Church there called Trinity Church, burying-place and lands thereunto belonging, by whatever name or names the same were purchased and had ; and that the said Rector and Inhabitants, and their successors by the same name from thenceforward should have good rights and lawful authority to have, take, receive, acquire, and purchase and use and enjoy lands, tenements and hereditaments, goods and chattels, and to demise, lease and improve the said lands, tenements and hereditaments, and to use and improve such goods and chattles to the benefit of the said Church and other pious uses, not exceeding five hundred pounds yearly rents or incomes, with diverse other privileges and powers to them the said Rector and Inhabitants, and their successors, as by the said recited act more at length it doth and may appear.

And whereas the said Rector and Inhabitants of the said City of New-York, in communion of the Church of England as by law established, by their petition to our right trusty and well beloved cousin, Edward Viscount Cornbury, our Captain General and Governor in Chiefe in and over our province of New-York and territories thereon depending in America, and Vice Admiral of the same, have humbly prayed that wee would grant and confirm unto them and their successors for the use of the said Church, all those our severall closes, peeces and parcells of land, meadows and pastures formerlly called the Duke's Farme, and the King's Farme, now known by the name of the Queen's Farme, with all and singular ye fences, inclosures, improvements and appurtenances whatsoever thereunto belonging as the same are now in the occupation of and enjoyed by George Ryerse of the City of New-York, yeoman, or by any former tenant, scituate, lying and being on the Island Manhattans in the city of New-York aforesaid, and bounded on the East, partly by the Broadway, partly by the Common, and partly by the Swamp, and on the West by Hudson's River, and also all that our piece or parcell of ground, scituate and being on the south side of the churchyard of Trinity Church aforesaid, commonly called and known by the name of the Queen's Garden, fronting to the said Broadway on the East, and extending to low water marke upon Hudson River on the West, all which said premises are now lett at the yearly rent of thirty pounds, which reasonable request wee being willing to

grant ; know ye that of our especiall grace, certaine knowledge, and meer motion, we have given, granted, ratified and confirmed in and by these presents, for ourself, our heirs, and successors, we do give, grant, rattify and confirm unto the said Rector and Inhabitants of the City of New-York in communion of the Church of England as by law established and their successors all and singular the said farme lands, tenements and hereditaments hereinbefore mentioned, as the same are hereinbefore particularly set forth, with the appurtenances and every part and parcell thereof or thereunto belonging or accepted, reputed, or taken as part parcell or member thereof as the same now are held, occupied and enjoyed by the said George Ryerse, or have been heretofore occupied and enjoyed by any former tenant or tenants, and all rents, arrearages of rents, issues and profits thereof, and of every or any part or parcell thereof together with all woods, underwoods, trees, timber which now are standing and growing, or which hereafter shall stand and grow in and upon the premises hereby granted, or any part thereof, and all feedings, pastures, meadows, marshes, swamps, ponds, pooles, waters, watercourses, rivers, rivolets, runs and streams of water brooks, fishing, fowling, hawking, hunting, mines and minerals, and all and singular the ways, passages, easements, profits, commodities and appurtenances whatsoever to the said farm, several closes, peeces and parcells of land and premises belonging or in any wise of right appertaining (except and always reserved out of this, our present grant all gold and silver mines.)

To have and to hold the said farme, severall closes, pieces and parcells of land and premises hereinbefore granted and confirmed or meant, mentioned, or intended to be hereby granted and confirmed with their and every of their appurtenances (except before excepted) unto the said Rector and Inhabitants of the City of New-York in communion with the Church of England as by law established, and their successors forever. To be holden of us, our heirs and successors in free and common socage as of our Manor of East Greenwich in our County of Kent, within our kingdom of England, yielding, rendering, and paying therefore yearly and every year unto us, our heirs and successors at our City of New-York aforesaid to our Collector and Receiver General there for the time being, on the feast of the Nativity of our blessed Saviour the yearly rent of three shillings current money of New-York in lieu and stead of all other rents, services, dues, duties and demands whatsoever, Provided always, and our present grant is upon this condition that if our Capt. Generall and Govr. in Chief for the time being of our said Province of New-York, shall at any time hereafter cease or forbear the yearly payment of six and twenty pounds for the house rent of the Rector or Minister of Trinity Church of

New-York aforesaid, which is now paid out of our revenue in the said province, and at such time, no suitable house shall be erected and built for the proper use and convenient dwelling of the Rector of the said Church for the time being, yt then the said Rector and Inhabitants of the said City of New-York, in Communion of the Church of England as by law established, and their successors shall from thenceforth yearly, and every year, out of the rents and profits of the hereinbefore granted lands and premises, pay and discharge the same for and until such suitable house shall be erected and built for the proper use and convenient dwelling of the Rector of the said Church for the time being, any thing herein before in this our grant conteined to the contrary thereof in any wise notwithstanding. In testimony whereof we have caused these our letters to be made pattents, and the seal of our said province of New-York to our said letters pattent to be affixed and the same to be recorded in the Secretary's Office of our Province. Witness our Right trusty and well beloved cousin Edward Viscount Cornbury, Capt. Generall and Govr. in Chief in and over our province aforesaid and territory depending thereon in America and Vice Admirall of the same &c. in Council at our fort in New-York aforesaid the three and twentieth day of November, in the fourth year of our reigne anno Dm. 1705.

State of New-York, Secretary's Office.

I certify the preceding to be a true copy of certain letters patent as of record in this office, in Book of Patents No. 7, page 338, &c.

In testimony whereof I have hereunto affixed the
L. S. seal of this Office, at the City of Albany, the 9th day of November, in the year of our Lord one thousand eight hundred and thirty.

ARCH'D CAMPBELL, Deputy Secretary.

QUEEN ANNE'S RECOGNITION AND INSTRUCTIONS OF APRIL 14, 1714.

Anne R.

Trusty and well beloved, we greet you well.

Whereas, our trusty and well beloved, the Rector, Church Wardens, and Vestrymen of Trinity Church in our city of New-York, have by their humble address, represented unto us, that our right trusty and our right well beloved cousin and councillor Edward, Earl of Clarendon, our late governor of our province of New-York, did grant a lease of our farm

to them for seven years, under the rent of sixty bushels of wheat yearly payable unto us, (the like having been before granted to Colonel Benjamin Fletcher, Governor under our late royal brother, King William, with the like reservation,) but as these rents were esteemed a perquisite of the several governors, for the time being, the said Colonel Fletcher, who was a great benefactor and promoter of the first settling of that Church, did remit the rent during his time for that pious use, as also did the Earl of Clarendon, so much as accrued under the lease granted in his time.

And that the said Earl, for promoting the interest of the said Church, and settling a lasting foundation for its support, did by virtue of the authority derived from us, under our great seal of England, grant the same farm under the seal of our province of New-York, to the Rector and inhabitants of the city of New-York, in communion of the Church of England, as by law established, and their successors for ever, under the yearly rent of three shillings.

But that the corporation of the said Church, are now prosecuted in our Court of Chancery, there in our name, for the several rents reserved on the leases before granted, and by the several governors before remitted, and that our letters patent for the said farm, are rendered disputable, and therefore humbly imploring, that we will be graciously pleased to give such directions for stopping the said prosecution as we shall think fit.

We taking the premises into our royal consideration have thought fit to signify our will and pleasure unto you, and accordingly our will and pleasure is, that immediately upon receipt hereof, you do stop the prosecution now carrying on in our court of chancery there against the said corporation, and do not suffer any further proceedings to be had in that suit, until we shall signify our further pleasure to you, and for so doing, this shall be your warrant, and so we bid you farewell.

Given at our Court of St. James, the 14th day of April, 1714, in the thirteenth year of our reign.

By her Majesty's Command.

BOLINGBROKE.

THE

TRINITY CHURCH TITLE.

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE,

MADE TO THE

HOUSE OF ASSEMBLY,

MAY 12, 1836.

MEMORIAL

OF

The Corporation of Trinity Church,

TO THE

LEGISLATURE.

March 26th, 1853.

&c., &c.

New-York:

PUDNEY & RUSSELL, PRINTERS,

No. 79 John-Street.

1855.

NOTE IN 1846.

In 1835 there appeared, in the New-York Gazette, a publication under the signature of *Vindex*, upon the subject of the Trinity Church title, with a Memorial to the Legislature, founded upon the views of the writer. The House of Assembly referred the matter to the Commissioners of the Land Office, who made the Report that is contained in the following pages. *Vindex's* argument appears to have been adopted by Counsel, in a late case before the Assistant Vice Chancellor of the First Circuit. (See New-York Evening Post, of Friday, Feb. 13th, 1846.) The reminiscence of this Report, and of the principles it contains, and the conclusions arrived at in it, may quiet some present disposition to revive the same questions.

The signers of this document were, the Attorney General, the Secretary of State, the Comptroller, the Treasurer, and the Surveyor General of the State, *ex officio* Commissioners of the Land Office. The Hon. Greene C. Bronson was Attorney General at the time of the reference and the hearing of the parties, but being elevated to the bench of the Supreme Court on 6th January, 1836, the proceedings were continued and concluded in the time of his successor, who acquiesced in the Report, the argument being on paper.

ADDITIONAL NOTE IN 1855.

Very extraordinary pretensions and very mistaken ideas respecting the Trinity Church title having been lately revived by parties speculating upon the chance either of extorting money from the Church, or of disposing of shares in the enterprise of a suit by the State, for the partial benefit of the informers it has been considered advisable again to re-publish the Report of the Commissioners of the Land Office, made to the Legislature of 1836. As the principles of Law and Justice never alter, and changes in the Statutes cannot affect vested rights, a perusal of this paper may prevent improvident commitments, induced by the representations and persuasions of interested parties, with, unfortunately, some show of encouragement by the Public Authorities.

Those inclined to examine the evidence of the Church's right to the property, will find complete and overwhelming testimony in the Report of the case of *Bogardus* vs. *Trinity Church*, in Sandford's Chancery Reports, vol. iv., pp. 633 and 369.

State of New-York.

No. 321.

IN ASSEMBLY,

May 12, 1836.

REPORT

Of the Commissioners of the Land-Office, on the memorial of Wm. Cochran, John William Fay, and sundry other inhabitants of the city of New-York, in relation to Trinity Church.

TO THE ASSEMBLY:

The Commissioners of the Land Office, to whom was referred the memorial of William Cochran, John William Fay, and sundry other inhabitants of the city of New-York, in respect to Trinity Church in that city, have the honor to present the following

Report:

The memorial was referred to the Commissioners on the 30th March, 1835, and the report has been delayed to this time by the desire of the Commissioners to afford to the parties concerned an opportunity to be

heard, if they should so desire, and by other circumstances which it was not in their power to control. A day was appointed for the hearing during the recess of the Legislature, and the proper notices were given, as well to the memorialists as to Trinity Church. The latter appeared by counsel, from whom a paper was subsequently received, stating the legal grounds on which the church claims to hold its corporate property.

The memorialists suggest, that there is in the city of New-York an ecclesiastical body, called "The Rector, Church-Wardens and Vestrymen of Trinity Church in the city of New-York;" that said "church is in possession, and receives the profits, of a very extended landed estate;" that the revenue of said church was formerly limited by the Legislature of this State "to the sum of twelve hundred pounds per annum of the then currency," "which would amount to three thousand dollars of the present currency;" but that its present revenue "very much exceeds the sum to which it is limited" by law, and that the immense wealth of Trinity Church gives it "a preponderating influence, not only in the affairs of the Protestant Episcopal Church in this State, but in those of the United States." That in the opinion of the memorialists, the possession of so great wealth by this society, is inconsistent with the spirit of the government and Constitution of this State; and that, in permitting it so to be held, the government give a preference to "a particular religious denomination." The memorialists, therefore, pray that "the whole of said real estate, or

so much thereof as creates the excess of revenue, beyond the amount limited, may be taken to and for the people of this State; and that the Legislature will take such proceedings in the premises as may seem proper."

On the sixth of May, 1697, William III., King of England, granted a charter of incorporation to a rector and certain inhabitants of the city of New-York. This charter recites, amongst other things, that certain inhabitants of said city had, by their petition, represented that a church had been built within said city, at the charge of the governor of the then province of New-York, and several other inhabitants of said city, and prayed that said "church might be made parochial and incorporate into one body politic, in fact and in name;" and that a yearly maintenance might be appropriated unto said church, and also that his majesty would make a royal grant of a piece of land near adjoining to said church, for the use of said church and corporation; wherefore in consideration of the premises, and of the great charge which must accrue in finishing said church, &c., and in erecting and providing a parsonage house, &c., his majesty granted and declared that said church, "situate in and near the street called Broadway," in the city of New-York, "and the ground thereunto adjoining, inclosed and used as a cemetery or church-yard," should be the parish church and church-yard of the parish of Trinity Church, within said city, and dedicated to the service of God, and applied thereunto for the use of

those who might from time to time be inhabitants of the city of New-York, in communion with said Protestant Church of England, as then established by the law, and to no other use or purpose whatever; and that there should be a rector, and a perpetual succession of rectors in said parish, the Bishop of London being thereby constituted the first rector. The charter also declared and provided, that said Bishop and his successors, rectors of said parish, and the inhabitants of said city, in communion as aforesaid, should be a body corporate and politic, in fact and in name, by the name of "*The Rector and Inhabitants of our said city of New-York, in communion of our Protestant Church of England, as now established by our laws*," with perpetual succession, and power to have, acquire, and purchase lands, goods and chattels, and to use, lease, and dispose of the same as other liege people, "or any corporation," within the realm of England or said province might lawfully do, "not exceeding the yearly value of five thousand pounds." It was also declared by said charter, "that the said church cemetery, or church-yard," should "be the sole and only parish church and church-yard of" said city of New-York; and a certain yearly maintenance of one hundred pounds, directed by an act* of the general assembly of said province, was in and by said charter granted to said rector and his successors forever, to be levied and collected according to said act; the

* This act was passed 24th March, 1693. Livingston and Smith's edition of the Provincial Laws, p. 18.

said premises, rights, &c., to be holden by said corporation in free and common socage, at the yearly rent of one pepper corn, if demanded.

This is an epitome, so far as is deemed to be material, of the original charter of Trinity Church, in the city of New-York.

An act of the Legislature of the province of New-York, passed the 27th of June, 1704,* recites that Trinity Church had been erected by the voluntary contributions of sundry inhabitants of the city of New-York, who had also purchased and procured, and held and enjoyed "the said church, with the cemetery or burying-place, and a certain tract of land belonging thereto." The act then proceeds to declare that the rector of said church, and the inhabitants of said city, in communion of the Church of England, as by law established, and their successors, should possess corporate powers, and as such corporation, might "hold, use, exercise and enjoy" the said church, burying-place, and land thereto belonging, by whatsoever name or names the same were purchased and had, and "in as firm and ample a manner in the law, as if the said rector and inhabitants had been legally incorporated" *before* the purchasing, taking, receiving, and holding the same.

It is probable that the title of the corporation to the church, burying-place and land adjacent, had been called in question before the passing of this act, and that a principal object of the provision which has been recited,

* Livingston and Smith's edition of the Provincial Laws, p. 60.

was to confirm that title and render it incontestable. The first step in the origin and progress of Trinity Church, appears to have been the erection of the church by voluntary contribution, and the acquisition of a title of some description to the land on which the church was erected, and the land adjacent thereto. In whom this title was vested, does not appear; but by the sixth section of the act last referred to, it appears that the title had been conveyed by the corporation of the city of New-York, "*for the use* of Trinity Church." The church, however, had not then been incorporated, and was therefore incapable of taking a legal title. The charter of incorporation was subsequent to this grant and to the erection of the church; but this, although it gave to the body thereby created a capacity to acquire and receive title to the church property, did not, in fact, invest it with that title. That could only be effected by subsequent legal conveyance to the corporation; or in case the title had previously been transferred in an informal manner, for the benefit of those who were thus incorporated, the Legislature might correct such defects and informalities, and thus vest the title according to what had been the real intention of all parties. This is what the act of 27th June, 1704, was intended to effectuate; and hence it provided, that the corporation should have and hold said church, burying-place and land, by whatsoever name the same were purchased or granted, in as ample a manner as if said corporation had been created *before* such purchase or grant had been made.

The act of 27th June, 1704, also declares that said corporation may acquire and purchase lands, tenements and hereditaments, goods and chattels, and lease and improve such lands, &c., in amount, however, "not exceeding five hundred pounds yearly rent or income."

This corporation was, therefore, not only originally created by the King's charter, but it was subsequently declared by the Provincial Legislature to be a corporation, and to possess such general powers as the original charter had assumed to confer upon it.

On the twenty-third day of November, 1705, Lord Cornbury, Governor of the Province of New-York, in the name, and as the act and deed of Queen Anne, made a lease, by which certain pieces of land, formerly called the Duke's farm and the King's farm, and then known by the name of the Queen's farm, as the same were then in the occupation of and enjoyed by George Ryerse, or by any former tenant, situate in the city of New-York, "and bounded on the east partly by the Broadway, partly by the common, and partly by the swamp, and on the west by Hudson's river; also, all that one piece" of land "on the south side of the church-yard of Trinity Church," called the Queen's garden, were granted and confirmed to said corporation, to the use "of the said rector and inhabitants of the said city of New-York, in communion of the Church of England, as by law established, and their successors *forever*, to be holden" in free and common socage, paying the yearly rent of three shillings.

The Corporation of Trinity Church is understood to possess and claim title to several pieces of land in the city of New-York.

1. The land on which the church was erected, and the church-yard thereto adjoining, &c. These lands seem, in part, to have been purchased by voluntary contributions, and the residue granted by the city of New-York, for the use of Trinity Church, before the corporation was created. The title of the corporation to these lands was confirmed by the act of 27th June, 1704.

2. The Duke's farm, the King's farm, and Queen's farm; all meaning the same piece of land.

3. The King's or Queen's garden, as it was called, on the south side of the church-yard.

The two last pieces were conveyed to the corporation by the lease of 1705, of which an abstract has been given.

Upon these sources of title, together with an uninterrupted possession under them, the Corporation of Trinity Church relies to establish its present right to the property in question.

It has been suggested, however, that the lease executed by Governor Cornbury, in 1705, being in perpetuity, was, on that ground, null and void; and it is true that an act of the Provincial Legislature of 12th May, 1699,* declares that it shall not be in the power of any Governor of the Province of New-York, "to grant or

* Livingston and Smith's edition of the Provincial Laws, p. 33, ch. 79, § 3.

demise for any longer than his own time in the government, any of the lands hereinafter mentioned, that is to say: Nutten Island, *the King's farm*, *the King's garden*, the swamp, and fresh water," "being the demesne of his majesty's fort at New-York, and for the benefit and accommodation of his majesty's governors and commanders in chief for the time being."

But this act was repealed by an act passed on the 27th of November, 1702.*

It is true, that the repealing act was annulled by Queen Anne, the 26th of June, 1708, and the restraining act of 12th May, 1699, was at the same time confirmed by her majesty.

But, although the power of the crown, to annul acts of the Provincial Legislature, was indisputable, and they were required to be transmitted to the Sovereign of Great Britain "for approbation or disallowance;" and, if disallowed, were, "from thenceforth," void, and of none effect, yet, until so disallowed, they were, to all intents and purposes, laws. The power of the Provincial Governor to make leases of the crown lands was, therefore, unlimited in 1705, when the lease in question was made. This lease seems, therefore, to have been valid and effectual in its inception, and to have been so regarded during the continuance of the Provincial government.

It appears from an entry in "Quit-Rent Ledger, No.

* Livingston and Smith's edition of the Provincial Laws, p. 52; and Bradford's edition of the Provincial Laws, p. 196.

1," of the office of the Receiver General of the Province of New-York, and which is now in the Comptroller's Office, that the rent of three shillings per annum, reserved by the lease of the 23d November, 1705, was paid in full to the 25th of December, 1750.

It also appears from Quit-Rent Book, D., in the Comptroller's Office, that on the 20th of September, 1786, the rent for eleven years preceding the 25th December in that year, was paid to the State, and that a farther sum of two pounds two shillings, being fourteen times the amount of one year's rent, was paid by way of commutation, and in full satisfaction and discharge of said rent. This payment was made under and pursuant to the act of the first of April, 1786, which declares that such payment "shall be a good discharge of such quit-rent forever".*

The lease of 1705 seems, therefore, to have been regarded as a subsisting and valid grant, not only by the Provincial Government to as late a period as 1750, when rent was paid upon it, but by the government of this State, in 1786, when the rent reserved was finally commuted and satisfied.

There is probably no room to doubt but that the Corporation of Trinity Church has, by its agents and tenants, held and possessed the lands in question, claiming an absolute and indefeasible estate therein, free from all rents and charges, &c., from the commutation and payment of said quit-rent, in 1786. If this is so, it would

* Jones and Varick's edition of the Laws, Vol. I., 250.

seem to be clear, that if the people of this State then had a right to said lands, that right has been lost, and is barred by lapse of time. By the act of 26th February, 1788, the right of the people of this State to sue for the recovery of lands is limited to forty years after the right of action accrued; and the same period was continued down to the late revision of the laws of this State.* The limitation in England, and in the Province of New-York, was sixty years.

An act, passed the 17th of April, 1784, † makes certain alterations in the charter, "to render it more conformable to the Constitution of the State;" and the act of 10th March, 1788,‡ authorizes the corporation to take and use the name of "*The Rector and Inhabitants of the city of New-York, in communion of the Protestant Episcopal Church, in the State of New-York*," and confirms certain conveyances made to or by said corporation, by "any other name or names" whatever.

An act of the 14th March, 1806, § recites that a charity school had, for a considerable number of years past, been under the care and management of the Corporation of Trinity Church, and that said school had lately been endowed by said corporation. It then proceeds to incorporate the trustees of said school, and declares that they shall, in each year, render an account to the Corporation of Trinity Church.

* 1 R. L. p. 184, and the acts there referred to.
† Holt and Loudon's edition of the Laws, 7th Session, p. 42.
‡ Ib. 11th Session, ch. lxvi. § Laws of 29th Session, p. 126.

The act of 25th January, 1814,* changed the name of the corporation to that of "*The Rector, Church-Wardens, and Vestrymen of Trinity Church, in the city of New-York.*" This statute confirms the separation which had previously taken place between said corporation and Saint George's Chapel, and the transfer of property which had been made by the Corporation of Trinity Church to that chapel. It also authorized the Corporation of Trinity Church, as often as should seem expedient, "to divide the congregation or corporators belonging to said corporation," by setting apart, as a separate church, any of the churches or chapels that may belong to, and form a part of the said corporation."

The Legislature of this State have, therefore, repeatedly recognized the Corporation of Trinity Church as a legal, valid, and subsisting corporation.

It is, however, urged, that the annual income of the corporation greatly exceeds the amount at which it is limited by the original charter, and by legislative enactments binding upon said corporation. The Commissioners of the Land Office are not apprised of the amount of this income; but it is probably true that it exceeds the sum of five thousand pounds mentioned in the original charter. It is not, however, pretended that the property now owned by Trinity Church would have produced anything like an income of five thousand pounds when it was conveyed to the corporation. The present large income arises from the great appreciation

* Laws of that Session, p. 5.

of the lands conveyed to the corporation by the lease of 1705, not, as is understood, by any acquisition of property since that time. It is, however, not supposed that any forfeiture of charter or income, whatever may be the amount of such income, can follow from this rise in value of the real estate owned by the corporation. (*See* 2 *Inst.* 722.) This principle is plainly recognized in the 6th section of the act of 25th January, 1814, (3 *R. S.* 299,) which declares, "that in every case where a church or religious society which has been, or may be, duly incorporated, shall have exhibited such account and inventory as is specified in the ninth [tenth] section of the act, entitled 'An act to provide for the incorporation of religious societies,' it shall not be necessary for such church or society again to exhibit any account and inventory, *unless the said church or society, subsequently to such exhibition, shall have purchased or acquired any lands, tenements, or hereditaments, within this State.*"

In conclusion, the Commissioners of the Land Office are of opinion,

1. That "*The Rector, Church-Wardens, and Vestrymen of Trinity Church, in the city of New-York,*" are a valid corporation, with full power to hold the real estate which has been referred to.

2. That it has a valid, subsisting and absolute title to the lands referred to.

3. That it also is entitled to the rents and profits of said lands, without any regard to the amount of income which they may yield.

Which is respectfully submitted.

S. BEARDSLEY,
JOHN A. DIX,
A. C. FLAGG.
A. KEYSER,
WILLIAM CAMPBELL.

Albany, *May* 12*th*, 1836.

State of New-York.

No. 63.

IN SENATE,

Mar. 26, 1853.

MEMORIAL

Of the Rector, Church Wardens and Vestrymen of Trinity Church, in the city of New-York.

To the Honorable the Legislature of the State of New-York :

The memorial of the Rector, Church Wardens and Vestrymen of Trinity Church, in the city of New-York,

Respectfully Shows:

That your memorialists have seen a copy of certain petitions addressed to your honorable body by Christopher C. Kiersted and others, on the subject of an action pending in the Supreme Court, brought by the said Kiersted against your memorialists, sundry of their officers, and the People of the State of New-York.

The professed object of the said petition is to obtain the passage of a law, by which a preference may be given to the said action, so as to expedite the final decision.

Your memorialists interpose no objection to a general law by which a preference shall be given in all courts to actions in which the People of the State are parties or are interested. On the contrary, your memorialists fervently desire such a law, if it will have any effect in terminating the litigation which has been for twenty-two years and upwards maintained by the counsel for Mr. Kiersted in his name, and in the names of other persons pretending some claim upon the property of your memorialists,and which has heretofore invariably terminated in the defeat and failure of all such claims.

But your memorialists doubt whether it would be expedient, by a special law, to recognise the principle that the State has properly been sued in one of its own courts; a general law, properly framed, would avoid such a recognition.

But the real object of the petitioners would appear to be, to excite suspicion of the title of your memorialists to a large portion of the real estate they have held and enjoyed without any successful molestation for one hundred and fifty years, under a grant from the Sovereign of Great Britain. A further object appears to be, to induce the belief that the State has a valid claim to some portion of the same property, and by appeals to cupidity, endeavor to enlist the efforts of the Legislature and public officers in co-operation with the petitioner, Kiersted, and his counsel, to despoil your memorialists. The long and very inaccurate statement of transactions and assu-

med facts which make the petition so voluminous, was not at all necessary or even useful to promote the professed object, and could only have been inserted, as it appears to your memorialists, for the purposes above indicated.

To allow such a statement to remain among the public archives of the State without any answer, contradiction or explanation by your memorialists, might furnish new material for the petitioner and his counsel to question the rights of your memorialists.

Your memorialists, therefore, and for the sole purpose of excluding any conclusion or inference from their silence, hostile to their rights and interests, beg leave to lay before your honorable body a few facts and references to public documents and proceedings, which will place the claim and pretences of the petitioners in their true light, and which will exhibit the absurdity of the pretext of any claim, right, or interest of the State in any property held by your memorialists.

I. By a patent recorded in the office of the Secretary of State, in Book of Patents, No. 7, page 388, &c., dated the 23d day of November, in the year 1705, there was granted to the corporation represented by your memorialists, forever, by the then Governor of the Colony of New-York, the tracts of land in the city of New-York then known as the Duke's farm and the Queen's farm, and the tract known as the Queen's garden, at a perpetual rent of three shillings current money of New-York annually.

II. A recognition and confirmation of that grant by Queen Anne on the 14th of April, 1714, the original of which has been repeatedly produced in the courts of this State, and particularly in the controversies with the petitioner, Kiersted, and his associates. It seems to have been deemed convenient by the petitioners to omit all notice of, or allusion to, these papers in their petition.

III. A report of the Commissioners of the Land Office, dated May 12, 1836, signed by Samuel Beardsley, John A. Dix, A. C. Flagg, A. Keyser and William Campbell, made in pursuance of a reference to them by the House of Assembly, on the 30th of March, 1835; in which report the title of your memorialists to the lands mentioned in the petition called the Duke's farm, the Queen's farm, and the King's or Queen's garden, was fully investigated, and also the right of your memorialists to hold property yielding a greater income at that time than was prescribed in the charter of the corporation. The conclusions of the commissioners are thus stated by them:

"1st. That 'the Rector, Church Wardens and Vestrymen of Trinity Church, in the city of New-York,' are a valid corporation, with full power to hold the real estate which has been referred to.

"2d. That it has a valid, subsisting and absolute title to the lands referred to.

"3d. That it also is entitled to the rents and profits

of said lands, without any regard to the amount of income which they may yield."

IV. During more than twenty years past, different persons, claiming by the same title as the petitioner, have commenced suits in the courts of this State for the recovery of the real estate held by your memorialists, under the said patent and confirmation.

Previous to 1830, one Bogardus, claiming, as the petitioner does, to be an heir of Anneke Jans, commenced proceedings in the Court of Chancery against your memorialists to recover a part of the Queen's farm. The case was elaborately argued, and decided in favor of your memorialists by the late Chancellor Walworth. (See 4th Paige's Reports, 178.) It was carried by appeal to the Court for Correction of Errors, where the decision of the Chancellor was affirmed. (See 15th Wendell's Reports, page 111.)

Scarcely had the above suit been determined, when another was commenced by one Jonas Humbert, also claiming as an heir of Anneke Jans. The complainant's bill was demurred to, whereby all that he thought proper to set forth was admitted,* the demurrer was sustained by the Chancellor, and the bill was dismissed. (See 7th Paige's Reports, page 195.) This also was carried by appeal to the Court for the Correction of Errors, and the decision of the Chancellor was sustained by the

* See 2d note on page 23.

unanimous vote of the members of the court. (See 24th Wendell's Reports, page 587.)

An issue of fact was afterwards made in the name of Bogardus, claiming as an heir of Anneke Jans, in his suit in the Court of Chancery above mentioned, by his filing a replication to the plea therein; which was decided against the complainant by the late Vice-Chancellor Sanford, upon full, complete, and overwhelming testimony on the part of the defendants. (See 4th Sanford's Chancery Reports, page 633.*) From that decision no appeal was taken.

Nine other suits were brought in the Supreme Court by one Cornelius Brouwer, in 1847, shortly after the decision in the last mentioned cause, claiming as an heir of Anneke Jans, and after the causes were at issue, the plaintiff submitted to a nonsuit.

The exceedingly able, learned, and elaborate opinions of Justice Cowen, in 24th Wendell, 587, and of Vice Chancellor Sandford, in 4th Sandford's Chancery Reports, 633, cover the whole ground, and will richly repay, by their perusal, any time that may be occupied in investigating the grounds of the pretended claims.

It was supposed that these repeated decisions, of one uniform tenor, would have extinguished all hopes of success among the claimants.

* Idem. p. 369.

But it was reserved for the fertile genius of the counsel, who had commenced and conducted all these suits, (except those of Brouwer in the Supreme Court*) to devise a new form of proceeding, and the petitioner, Kiersted, was brought into the field, in whose name an action was brought in the Court of Common Pleas of the city of New-York, in July, 1851, against your memorialists, upon the old claim of being an heir of Anneke Jans. To his complaint in this action, your memorialists demurred, thereby admitting all his allegations.† For some reason which your memorialists cannot explain, another action was brought by the same counsel in the name of the same Kiersted, against your memorialists, in the Supreme Court, in April, 1852, while the action in the Common Pleas was pending. The complainant was compelled to elect between his actions, and he abandoned that in the Court of Common Pleas. Your memorialists again demurred to the complaint, and there the matter rests for the present. Had the plaintiff elected to continue his suit in the New-York Common Pleas, it could, from the then state of business in that court, have been brought to a hearing long since.

This brief history of the proceedings against your

* That of Humbert should also have been excepted.

† The demurrer is a technical admission, as it were, for the sake of the argument. It is never taken as establishing the facts alleged by the opposite party; on the contrary, after the demurrer is decided, his allegations may be denied and disproved, or shown to be unproved.

memorialists, and of the present proceedings, will probably enable your honorable body, and all others, to determine what the probabilities are of future success, and what grounds of claim exist against your memorialists, either by the heirs of Anneke Jans or by the State.

Respectfully submitted.

By order of the Corporation of Trinity Church in the city of New-York.

WM. E. DUNSCOMB,
Clerk of the Vestry, and Church Warden.

[L. S.] WM. H. HARISON,
Comptroller, and Church Warden.

Dated March 24th, A. D. 1853.

MEM.—In 1854 a similar petition was presented, and the following Act was passed without opposition, it being, in fact, as stated in the preceding Memorial of the Vestry, very desirable that a hearing and decision of the cause should be had as soon as possible. But that was not the real object of the petitioners for the Act. The defendants had to push on the argument against the obstacles that are usually interposed by unwilling parties and ingenious counsel. The cause was heard in November, and decided on 9th April, 1855. *The Bill* was dismissed, with costs.

AN ACT

To authorize a more speedy Trial and Termination of a certain Suit pending against the People of this State, and others—**Passed April 15th, 1854.**

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :—

§ 1. The Attorney General of this State is hereby authorized to call for trial and argument, a certain suit, now pending in the Supreme Court of the First District, wherein Christopher C. Kiersted is plaintiff, and the Corporation of Trinity Church and the People of this State are defendants, at any term of said court, or of the Court of Appeals of this State, in its present and all its future stages, in preference to any other suit or

suits on the calendar of either of the said courts; *and* the same preference shall be given to any other suit or proceeding which the Attorney General may deem it expedient to institute, with a view to ascertain, adjust, or enforce the rights of the State, either as against the said Kiersted, or the Corporation of Trinity Church, or other claimants.

MEM.—The proceedings of the Commissioners of the Land Office, mentioned in the next document, are alluded in the second prefatory note on back of title, which was printed before it was known that on the 2d March they had revoked their former action in the matter. [Vide p. 31.]

State of New-York.

No. 21.

IN SENATE,

JAN. 22, 1855.

COMMUNICATION

From the Attorney General in answer to a resolution of the Senate.

THE Attorney General has received the following resolution of the Senate:

"*Resolved*, That the Attorney General be requested to inform the Senate whether he has, since the adjournment of the Legislature of 1854, commenced any suit on behalf of the people of this State, against the Corpora-

ration of Trinity Church ; and if any suit has been or is about to be commenced, that he be requested to communicate to the Senate his authority or reason for such proceedings."

And in reply thereto, respectfully submits the following :—

No such suit has been commenced. The authority to commence such suit is given by the resolutions of the Board of Land Commissioners, passed June 10th, 1854, and amended August 31st, 1854, a copy of which is hereunto annexed ; by reference to which it will be seen, that such authority depends upon certain conditions to be performed on the part of the relator or memorialist named in the said resolutions. Those conditions not having been complied with on his part, as neither the evidence nor the bond required has been furnished to the Attorney General, no proceedings have been instituted by him in pursuance of the authority conferred by the said resolutions.

Respectfully submitted, &c.

OGDEN HOFFMAN,

Attorney General.

At a meeting of the Commissioners of the Land Office, at the Secretary's Office, June 10, 1854:

Present—E. W. Leavenworth, Secretary of State; James M. Cook, Comptroller; Robert H. Pruyn, Speaker of Assembly; John T. Clark, State Engineer and Surveyor.

The memorial of Rutger B. Miller, on behalf of himself and others, setting forth that they are in possession of evidence showing that the title of the property called the King's farm, in the city of New-York, and claimed by Trinity Church, is vested in the People of the State of New-York, and offering to guarantee the State against all expenditures of cost and expenses of suit, in case the Attorney General should deem it expedient to exercise the powers conferred upon him by the act of April 15, 1854, chap. 280, the consideration of the guarantee to be one quarter of the land recovered according to its value, was read: Thereupon,

Resolved, That in the opinion of this Board, the Attorney General should commence a suit to test the title of this State to the King's farm, provided the State shall be indemnified agreeably to the Statute in such case made and provided, against all costs growing out of the same, and to the satisfaction of this Board: Provided, however, that before such suit shall be commenced, the proper evidence showing the title of the State to the said farm should be shown and lodged with the Attor-

ney General; and provided, also, that said suit shall not be settled or discontinued without the consent and sanction of this Board.

Resolved, also, That in the event of a recovery, the person or persons furnishing the evidence on which such recovery shall be had, shall be entitled to such per centage on the amount recovered, as is provided by the laws of this State.

The question being taken on the adoption of the above resolutions, Messrs. E. W. Leavenworth, Pruyn and Cook, voted in the affirmative, and Mr. Clark in the negative.

At a meeting of the Commissioners of the Land Office, at the Secretary's Office, August 31, 1854:

Present—E. W. Leavenworth, Secretary of State; Sanford E. Church, Lieut. Governor; James M. Cook, Comptroller; E. G. Spaulding, Treasurer; Robert H. Pruyn, Speaker of Assembly.

Paper marked A.

Resolved, That the proceedings of this Board, of June 10, 1854, in regard to the memorial of Rutger B. Miller, be so amended, as to substitute for the second resolution the following:

Resolved, That by virtue of the authority conferred upon this Board by sections one and six, title four, chapter nine, part first of the Revised Statutes, in regard to

lands of the State belonging to the Common School Fund, the person or persons furnishing the evidence upon which such recovery shall be had, shall be entitled to the per centage of twenty-five per cent. of the value of lands recovered, as heretofore allowed by the laws of this State in cases of escheat.

Resolved, That the amount of the bond of indemnity referred to in the first resolution of June 10, 1854, be, and the same is hereby fixed at five thousand dollars, with security, to be approved by the Comptroller, and that the State will in no event be liable for counsel fees paid or incurred on behalf of the State in said litigation.

At a meeting of the Commissioners of the Land Office, at the Secretary's Office, March 2d, 1855 :

Present—Elias W. Leavenworth, Secretary of State; Henry J. Raymond, Lieut. Governor; James M. Cook, Comptroller; Elbridge G. Spaulding, Treasurer; Ogden Hoffman, Attorney General.

WHEREAS, the Attorney General having submitted to this Board the testimony in regard to the title of Trinity Church to the King's farm, which was furnished to him by Rutger B. Miller, and the same being unsatisfactory,

Resolved, That the resolution of June 10th, 1854, directing the commencement of a suit, and that of August 31st, 1854, in relation to the bond, be, and the same are, hereby rescinded.

State of New-York,
Secretary's Office.

I certify the foregoing to be a true extract from the minutes of the Commissioners of the Land Office. Dated Albany, April 6th, 1855.

A. G. JOHNSON,
Deputy Secretary of State, and
Clerk of the Commissioners of the Land Office

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State of New-York.

No. 63.

IN SENATE, MAR. 26, 1853.

MEMORIAL

Of the rector, church wardens and vestrymen of Trinity Church in the city of New-York.

To the Honorable the Legislature of the State of New-York:

The memorial of the Rector Church Wardens and Vestrymen of Trinity Church in the city of New-York,

Respectfully Shows:

That your memorialists have seen a copy of certain petitions addressed to your honorable body by Christopher C. Kiersted and others, on the subject of an action pending in the Supreme Court, brought by the said Kiersted against your memorialists, sundry of their officers, and the people of the State of New-York.

The professed object of the said petition is to obtain the passage of a law by which a preference may be given to the said action, so as to expedite the final decision.

Your memorialists interpose no objection to a general law by which a preference shall be given in all courts to actions in which the people of the State are parties or are interested. On the contrary, your memorialists fervently desire such a law, if it will have any effect in terminating the litigation which has been for twenty-two years and upwards maintained by the counsel for Mr. Kiersted in his name, and in the names of other persons pretending some claim upon the property of your memorialists, and which has heretofore invariably terminated in the defeat and failure of all such claims.

But your memorialists doubt whether it would be expedient, by a special law, to recognise the principle that the State has properly been sued in one of its own courts; a general law, properly framed, would avoid such a recognition.

But the real object of the petitioners would appear to be to excite suspicion of the title of your memorialists to a large portion of the real estate they have held and enjoyed without any successful molestation for one hundred and fifty years, under a grant from the Sovereign of Great Britain. A further object appears to be to induce the belief that the State has a valid claim to some portion of the same property, and by appeals to cupidity, endeavor to enlist the efforts of the Legislature and public officers in co-operation with the petitioner, Kiersted, and his counsel, to despoil your memorialists. The long and very inaccurate statement of transactions and assumed facts which makes the petition so voluminous, was not at all necessary or even useful to promote the professed object, and could only have been inserted, as it appears to your memorialists, for the purposes above indicated.

To allow such a statement to remain among the public archives of the State without any answer, contradiction or explanation by your memorialists, might furnish new material for the petitioner and his counsel to question the rights of your memorialists.

Your memorialists, therefore, and for the sole purpose of excluding any conclusion or inference from their silence, hostile to their rights and interests, beg leave to lay before your honorable body a few facts and references to public documents and proceedings, which will place the claim and pretences of the petitioners in their true light, and which will exhibit the absurdity of the pretext of any claim, right or interest of the State in any property held by your memorialists.

I. By a patent recorded in the office of the Secretary of State, in book of patents No. 7, page 388, &c., dated the 23d day of November, in the year 1705, there was granted to the corporation represented by your memorialists, forever, by the then Governor of the Colony of New-York, the tracts of land in the city of New-York then known as the Duke's farm and the Queen's farm, and

the tract known as the Queen's garden, at a perpetual rent of three shillings current money of New-York annually.

II. A recognition and confirmation of that grant by Queen Anne on the 14th of April, 1714, the original of which has been repeatedly produced in the courts of this State, and particularly in the controversies with the petitioner, Kiersted, and his associates. It seems to have been deemed convenient by the petitioners to omit all notice of, or allusion to, these papers in their petition.

III. A report of the commissioners of the land office, dated May 12, 1836, signed by Samuel Beardsley, John A. Dix, A. C. Flagg, A. Keyser and William Campbell, made in pursuance of a reference to them by the House of Assembly, on the 30th of March, 1835; in which report the title of your memorialists to the lands mentioned in the petition called the Duke's farm, the Queen's farm, and the King's or Queen's garden, was fully investigated, and also the right of your memorialists to hold property yielding a greater income at that time than was prescribed in the charter of the corporation. The conclusions of the commissioners are thus stated by them:

"1st. That 'the Rector Church Wardens and Vestrymen of Trinity church, in the city of New-York,' are a valid corporation with full power to hold the real estate which has been referred to.

"2d. That it has a valid, subsisting and absolute title to the lands referred to.

"3d. That it also is entitled to the rents and profits of said lands, without any regard to the amount of income which they may yield."

IV. During more than twenty years past, different persons claiming by the same title as the petitioner, have commenced suits in the courts of this State for the recovery of the real estate held by your memorialists, under the said patent and confirmation.

Previous to 1830, one Bogardus, claiming as the petitioner does, to be an heir of Anneke Jans, commenced proceedings in the

Court of Chancery against your memorialists to recover a part of the Queen's farm. The case was elaborately argued, and decided in favor of your memorialists by the late Chancellor Walworth. See 4th Paige's Reports, 178. It was carried by appeal to the Court for the Correction of Errors, where the decision of the Chancellor was affirmed. See 15th Wendell's Reports, page 111.

Scarcely had the above suit been determined, when another was commenced by one Jonas Humbert, also claiming as an heir of Anneke Jans. The complainant's bill was demurred to, whereby all that he thought proper to set forth was admitted, the demurrer was sustained by the Chancellor and the bill was dismissed. See 7th Paige's Reports, page 195. This also was carried by appeal to the Court for the Correction of Errors, and the decision of the Chancellor was sustained by the unanimous vote of the members of that court. See 24th Wendell's Reports, page 587.

An issue of fact was afterwards made in the name of Bogardus, claiming as an heir of Anneke Jans, in his suit in the Court of Chancery above mentioned, by his filing a replication to the plea therein; which was decided against the complainant by the late Vice-Chancellor Sandford, upon full, complete and overwhelming testimony on the part of the defendants. See 4th Sandford's Chancery Reports, page 633. From that decision no appeal was taken.

Nine other suits were brought in the Supreme Court by one Cornelius Brower in 1847, shortly after the decision in the last mentioned cause, claiming as an heir of Anneke Jans, and after the causes were at issue, the plaintiff submitted to a nonsuit.

The exceedingly able, learned and elaborate opinions of Justice Cowen in 24th Wendell, 587, and of Vice-Chancellor Sandford in 4th Sandford's Chancery Reports, 633, cover the whole ground, and will richly repay by their perusal any time that may be occupied in investigating the grounds of the pretended claims.

It was supposed that these repeated decisions of one uniform tenor, would have extinguished all hopes of success among the claimants.

But it was reserved for the fertile genius of the counsel, who had commenced and conducted all these suits (except those of Brower in the Supreme Court) to devise a new form of proceeding, and the petitioner, Kiersted, was brought into the field, in whose name an action was brought in the Court of Common Pleas of the City of New York, in July, 1851, against your memorialists upon the old claim of being an heir of Anneke Jans. To his complaint in this action, your memorialists demurred, thereby admitting all his allegations. For some reason which your memorialists can not explain, another action was brought by the same counsel in the name of the same Kiersted, against your memorialists in the Supreme Court, in April, 1852, while the action in the Common Pleas was pending. The complainant was compelled to elect between his actions, and he abandoned that in the Court of Common Pleas. Your memorialists again demurred to the complaint, and there the matter rests for the present. Had the plaintiff elected to continue his suit in the New York Common Pleas, it could from the then state of business in that court, have been brought to a hearing long since.

This brief history of the proceedings against your memorialists, and of the present proceedings, will probably enable your honorable body, and all others, to determine what the probabilities are of future success, and what grounds of claim exist against your memorialists, either by the heirs of Anneke Jans or by the State.

Respectfully submitted.

By order of the Corporation of Trinity Church in the city of New York.

WM. E. DUNSCOMB,
Clerk of the Vestry and Church Warden.

[L. S.] WM. H. HARRISON,
Comptroller and Church Warden.

Dated March 24th, A. D. 1853.

REMARKS

ON

TRINITY CHURCH BILL,

BEFORE

THE COUNCIL OF REVISION.

BY ROBERT TROUP, ESQ.,
ONE OF THE VESTRYMEN OF TRINITY CHURCH.

NEW-YORK:
PRINTED BY T. & J. SWORDS,
No. 160 Pearl-street.
1813.
REPRINTED BY JAMES A. SPARKS,
No. 161 Fulton-street, opposite St. Paul's.
1846.

NOTE.

These "Remarks" are re-printed from a copy that, with manuscript corrections and notes came from JUDGE TROUP'S own hand, There can be no doubt but that the same alterations and additions were made upon every copy that was *authoritatively* issued. They are incorporated in the present edition. A few references, and two or three brief notes with brackets [ ] for convenience have been added.

New-York, January, 1846.

PREFACE

TO THIS REPRINT.

The following pamphlet was published in 1813, previous to the decision of the leading cases in the courts of the United States and of this State respecting State laws affecting the obligation of contracts. That part of it which seems to maintain the power of the Legislature to vary the *elective franchise* in corporations, is therefore not expressed with that precision which doubtless would have been used had the case of *Dartmouth College* vs. *Woodward*, in 4th Wheaton's Reports, and other cases, been known to the writer. The distinction is now, and for years has been, settled by those cases, between public and private corporations. While "a "grant of political power—a civil institution to be employed in the "administration of the government" is subject to legislative control,—yet a private "eleëmosynary institution incorporated for the "purpose of perpetuating the application of the bounty of do-"nors" to public and charitable purposes, possesses franchises which are the subject of a contract between the government and the parties incorporated, so that they cannot be repealed or altered by a State legislature. The case referred to by Judge Troup, extending the right to vote for charter-officers in New-York, if justifiable at all, is to be maintained on the ground of this distinction, that the corporation of that city is a public one—a mere civil institution employed in the administration of the government; and of course, the case is not applicable to a private corporation. Judge Troup was not contending for the authority of the Legislature to alter the qualifications of the electors or corporators of Trinity Church; he had already demonstrated that the act of 1814 made no alteration, but his object was to satisfy the Council of Revision, that conceding for the sake of argument the point assumed in the objections reported to the Council—viz., that "the limitation of the right of "election provided by the bill" (of 1814) "*may* divest or impair" existing rights of corporators, he proceeds to call the attention of the Council to the great difference between the case that had been cited in those objections as analogous of a clear violation of

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REMARKS

On the Bill entitled "An Act to alter the Name of the Corporation of Trinity Church, and for other Purposes.

The Bill was popular in both Houses of the Legislature, and it passed by large majorities. Certain objections were, notwithstanding, reported against it in the Council of Revision; and these remain to be acted upon at the next meeting of the Council. Two members of that Honorable Body were pleased to express a desire that the subscriber would furnish them with his reasons in support of the bill; and, in compliance with this desire, the following remarks are most respectfully submitted.

In the year 1697, a charter was granted by the Crown of Great Britain to the Episcopal inhabitants of the city of New York, by the name of the "Rector "and Inhabitants of our said City of New York, in "Communion of our Protestant Church of England, "as now established by our laws." The charter ordains, "that the church erected and built and situate "in and near the street called the Broadway, within "our said city of New York, and the ground there-"unto adjoining, enclosed, and used for a church-yard "or cemetery, shall be the *parish church*, and church-"yard of the *Parish of Trinity Church*, within our "said city of New York, for the use and behoof of "the inhabitants, from time to time, inhabiting, or to "inhabit within our said city of New York, in com-"munion of our Protestant Church of England, as "now established by our laws."* And also "that the "said *church* and cemetery, or church-yard, shall be "the *sole and only parish church* and cemetery, or

[* Vide Charter, post. lines 141—155.]

"church-yard, of our said city of New York."* And the charter further ordains, "that there shall be annu-"ally, and once in every year for ever, on the Tuesday "in Easter week, two church-wardens and twenty "vestrymen duly elected by the majority of votes of "the inhabitants of the said *parish* in communion as "aforesaid."† And "that the church-wardens, for the "time being, shall not, at any time, dispose of any of "the pews or places in the said church, to any person "not an inhabitant thereof, nor without the consent "and allowance of the vestrymen for the time being, "or any eleven or more of them."‡ And "that the "rector of the said *parish*, for the time being, shall "and may, by and with the consent of the said vestry-"men and church-wardens, for the time being, or any "eleven or more of them, whereof one of the church-"wardens to be one, from time to time, nominate one "able protestant minister, in priest's orders, to reside "in the said *parish*, to be preacher and assistant to the "said rector and his successors in the celebration of the "divine service of praying and preaching, and other "duties incident to be performed in the said *church* "or *parish*, as the Rector shall require of him; and "likewise to nominate a fit person to be clerk of the "said *parish*, and one or more sexton or sextons."§

From these passages of the charter it is obvious that the charter contemplates the city of *New York* as composing *one parish*, and *Trinity Church* as the *parish church*, to be governed by *one rector* and *one set of church-wardens and vestrymen*, and as the *church* in which the *parishioners* are to assemble and worship.

For many years, after the charter was granted, Trinity Church, from the small population of the city,

[* Vide Charter, lines 499—503.]
[† " Idem, lines 259—263.]
[‡ " Idem, " 313—319.]
[§ " Idem " 320—334.]

was large enough to contain all the Episcopalians of the city; and, of course, no other Episcopal church was erected; but, as the numbers of the city increased, it was found necessary to provide other buildings for public worship; and hence St. George's and St. Paul's chapels were erected some time before the Revolution.

Chapels by the practice of the English Church, are of two kinds; the one adjoins the mother church, and is part of it; the other, where the parish is large, is separate from the mother church, and is commonly called a chapel of ease; because it is built for the ease of the parishioners living at a distance from the church. But the chapel of ease, though separate from the mother church, is likewise considered as part of it.

The Church-Wardens and Vestrymen of Trinity Church, following the example of their English ancestors, founded St. George's and St. Paul's Churches, as chapels of Trinity Church. The natural effect of this system was, that these three churches formed one church—their several congregations were knit into one body—and the communicants, in each congregation, went, on Easter Tuesday, to the poll of Trinity Church, and voted for the same Church-Wardens and Vestrymen; and these by their office, took all the churches under their common government.

As the charter incorporates those who are in communion with the Church of England, communicants alone, before the Revolution, were admitted to the privilege of voting for charter officers; and the records of Trinity Church furnish no instance of a contrary practice.

Such, before the Revolution, was the condition of Trinity Church; in which there certainly was nothing repugnant to the prominent ideas pervading the whole charter—that the *city* should constitute *one entire parish*—that *Trinity Church* should be the *sole parish church*—and that *one Rector* should have charge of the *parish*.

After the Revolution a different order of things arose; partly from the principles which grew out of that memorable epoch; but chiefly from the quick growth in the population of the city.

Many friends of the Revolution believed that the right of voting, for Church-Wardens and Vestrymen of Trinity Church, by being confined wholly to the communicants, stood on a basis too narrow. The influence of this belief determined a considerable number of Episcopalians, in 1784, to apply to the Legislature for an extension of the right of voting, so as to vest it, in common with the communicants, in the pew and seat holders who should regularly pay to the support of the church. The Legislature readily granted the extension; and, for a long time afterwards, the pew and seat-holders, together with the communicants in Trinity Church, and its chapels, were received as voters at the elections for Church-Wardens and Vestrymen. The *city*, in reality, during such period, continued, as before the Revolution, to be *one parish*, and *Trinity Church* the *sole parish church.*

At length, however, it came to pass that the Episcopalians, by the increased population of the city, were too numerous to be accommodated with pews and seats in Trinity Church and its chapels. In this situation a respectable portion of Episcopalians had recourse to the act, entitled, "An Act to provide for the Incorporation of Religious Societies," for relief; and, in the year 1793, they incorporated themselves, under that act, by the name of "Christ's Church." The precedent, thus set by the corporators of Christ's Church, led other portions of Episcopalians, at different times, to adopt the same measure; and thus no less than nine Episcopal churches have lately been incorporated on New York island; in which number is included St. George's Church, which, until its incorporation, was one of the chapels of Trinity Church.

All these churches have been consecrated in the customary form, and regularly admitted into union

with the Episcopal Church in the State, by being received as distinct and independent members of the State Convention; and, accordingly, each of them has been privileged to vote, separately from Trinity Church, on every question agitated in the Convention.

The members of the new corporations elect their own Church-Wardens and Vestrymen; and they neither hold pews or seats in Trinity Church; nor do they commune in that church, or contribute to its support. The Vestries of the new corporations appoint their own Rectors, Clerks, and Sextons; and they manage all the spiritual and temporal concerns of their churches as they please; paying no regard whatever to the Vestry of Trinity Church.

The members of Trinity Church hold no pews or seats in any of the churches built by the new corporations; nor do they commune in those churches, or contribute to their support.* The Vestry of Trinity Church has never claimed a right to interfere with the elections of the new corporations, or with the appointment of their Rectors, Clerks, or Sextons, or with any other of their affairs, whether spiritual or temporal; nor have the members of Trinity Church ever asserted a right to vote at the elections of the new corporations.

As a consequence of the new incorporations, the congregation of Trinity Church may now be said to consist of those only who attend worship in that church and its chapels, St. Paul's Church and St. John's Church; the latter having been recently built as a chapel by Trinity Church.

The new corporations, without any exception, have received liberal donations of real and personal estates from the corporation of Trinity Church; and there appears to subsist between the new churches and Trinity

* A few of the members of Trinity Church, who reside out of town in the summer season, have pews in St. Michael's and St. James's Churches, for the convenience of attending public worship during the summer. These two churches are some miles distant from the centre of the city.

Church, the same cordiality that subsists between an affectionate mother and her equally affectionate children.

It is true, that no member of either of the new corporations ever claimed, or pretended to claim, a right to vote for the Church-Wardens and Vestrymen of Trinity Church prior to the election held for those officers in March, 1812. At that election several persons, known to be members of new corporations, offered themselves as voters; but they were rejected, because neither of them was a pew or seat-holder, or communicant, in Trinity Church, or either of its chapels: and one of these persons, after the bill had passed the Senate, instituted a suit, for the ostensible purpose of trying his claim; and the same person again offered to vote at the election held in April last.

Although it was public in the city, for weeks before the application was made, that the Vestry of Trinity Church was about applying to the Legislature, among other things, for an interpretation of the charter relative to the right of voting; yet the new corporations, condemning the claim to vote set up by some of their members, declined taking any step in opposition to the bill. And so odious was the claim to three of the corporations, that they spontaneously offered to join with the Vestry in soliciting a legislative act to extinguish it.

One solitary memorial, however, was presented against the bill, and this was from Thomas Farmer, as "Chairman," and Benjamin Ferris, as "Secretary," of the committee appointed by a meeting of Episcopalians, at Mechanic-Hall, called to denounce the Vestry, and the Ecclesiastical Court, for their proceedings in the case of the Rev. Cave Jones. This meeting was held more than a twelvemonth before the Vestry applied to the Legislature, and when their application was not even meditated.

The memorial complains, in general terms, of the usurpations of the Vestry, and prays that they may not be sanctionod. What usurpations are here alluded to the subscriber is at a loss to conceive. The Vestry has

done nothing more than to confine the right of voting to the pew, and seat-holders, and communicants, in Trinity Church and its chapels; and to hold and possess the property which it held and possessed long before the Revolution, and to which it derives title from charters and grants of the colonial government, confirmed by the Legislature of the State. And as to the use which the Vestry has made of its property, it will be seen, on examining the state of it, that it has been greatly diminished by donations to Columbia College, to a free-school which has been incorporated, to a society formed for the promotion of religion and learning, and to many churches and religious societies, not only in the city, but in various other parts of the State.

The bill, in its passage through the Houses, met with little opposition, except from its presumed interference with the elective franchise; and, in the House of Assembly, it was referred to the Attorney-General to report "whether, in his opinion, its passage would, in any "wise, defeat or vary any existing vested rights under "the charter, or any acts altering it." The Attorney-General reported that he "had examined the charter, "and the acts altering it, with the bill referred to him; "and he was of opinion that its passage would not de-"feat or vary any existing rights under the acts or "charter."

As the claim to vote has a tendency to create uneasiness in the minds of the members of Trinity Church in particular, and to excite dissentions among Episcopalians in general, *one* of the *objects* of the bill is to obtain such an interpretation of the charter as will effectually extinguish the claim.

The name of the corporation, since the new corporations have been instituted, has become inapplicable; as Trinity Church does not now unite, in its body, all the inhabitants of the city who profess to belong to the Episcopal Church; and a *second object* of the bill is to have the name of the corporation altered.

Some Lawyers, of eminence, entertain doubts

whether the grants of real estate made by the corporation of Trinity Church to the new corporations are legal; which doubts are said to spring out of the ancient rule of English law, declaring, "that no corporation "can make another corporation either by usage or "prescription, or by any other means than by the au- "thority of the King's charter empowering them to do "so by express words;"* and a *third object* of the bill is to remove these doubts, and to render the grants valid.

St. George's Church, being a chapel of Trinity Church, was recently set off as a separate church, and has been incorporated, and endowed by agreement between the congregation of that church and the Vestry of Trinity Church; and the same Lawyers, for the like reason, doubting the regularity of the transaction, a *fourth object* of the bill is to have the transaction confirmed.

Judging from the past, it is morally certain that the future increase of the population of the city will strongly recommend to the corporation of Trinity Church the policy of dividing its corporators, and setting them off, in separate churches, with suitable endowments; and, to enable the Vestry to do this, in a mode free from all legal doubts, and with the assent of a majority of the corporators to be set off, is a *fifth object* of the bill.

By the [ninth section of the act for incorporating religious societies, it is demanded of every religious society already incorporated, or to be incorporated, in the cities of New York, Albany, and Schenectady, to exhibit, once in every three years, an account and inventory of all its estate, both real and personal, on pain, if there be default, of ceasing to exist as a body corporate. The account and inventory so demanded have often been exhibited by the Corporation of Trinity

* 1 Kyd on Corporations, 47.

[† The tenth section of the law as revised and re-enacted in 1813. 2 R. L. 217; R. S. vol. 3, p. 297, §10.]

Church; but the provision has become a dead letter when, at the same time, a compliance with it is attended with considerable trouble and expense. And, in one or more instances, probably occasioned by forgetfulness in the party, the Legislature, to avoid all questions touching the dissolution of the corporation, has extended the time for making the exhibition. To exempt the religious societies in the cities of New-York, Albany, and Schenectady from the effect of a provision, as partial as it is useless, a *sixth object* of the bill is to procure a declaration, that where a religious society has once exhibited an account and inventory, it shall not be requisite again to exhibit the same, unless the society, after the exhibition, shall have acquired other real estate.

The objections against the bill, as reported in the Council, are,

1. "Because if the members of the several incorporated societies, in communion of the Protestant Episcopal Church in this State, formed in the city of New-York after the passing the act, entitled, 'An act for making such alterations in the charter of the corporation of Trinity Church, as to render it more conformable to the constitution of this State,' have a right to vote, at the annual elections for the church-wardens and vestrymen of Trinity Church, though not having been members of the congregation of Trinity Church within one year preceding any such election, or any of the chapels belonging to the same, and forming part of the same religious corporations, and holding, occupying, or enjoying a pew in the said Trinity Church, or any of the chapels thereof, or not having partaken of the holy communion therein within such year, in consequence of the rights and privileges vested in them by the laws of this State, and the incorporation of Trinity Church; the limitation of the right of election, provided by the bill, may divest

"or impair such right. And, if any doubts exist "respecting such right of suffrage, it is consistent "with the salutary principles of the constitution "of this State, to refer them to judicial cognizance, "as the appropriate and legitimate resort of ad- "verse claimants in controverted cases of that "description. This principle has been heretofore "recognized by the council in an analogous case, "and which received the sanction of the honor- "able the Assembly by an almost unanimous vote, "as will appear by a reference to their journals of "the 7th February, 1810."*

2. "Because the charter, being a private grant, and, "it not appearing by recitals or otherwise, what "are the existing doubts respecting the rights and "privileges thereby given, the Council are depri- "ved of the means of judging whether any vested "corporate rights are not violated by the restric- "tions and provisions contained in this bill."
3. "Because the saving, contained in the proviso to "the last section of the bill, 'of the right of any "person or persons, or of any body corporate, to "the estate, real or personal, now held, occupied, "or enjoyed by the corporation of Trinity Church,' "is nugatory, inasmuch as all such rights, so far as "they respect the corporators, depend principally "upon, and are inseparably connected with the "right and privilege of being a member of the cor- "poration, and voting for church-wardens and "vestrymen, who have the management and "disposition of the temporalities belonging to the "corporation."

These objections shall be examined with care and impartiality.

Whoever reads the act for incorporating religious societies, and reflects upon its provisions, and the free-

* See objection of the Council of Revision, which received the sanction of the Assembly, page 69, post.

dom of our civil and religious institutions, must be persuaded that the Legislature intended that every Episcopal society, incorporated under the act, should enjoy a separate and independent existence, and be wholly governed, in its spiritual and temporal concerns, by officers of its own choice. The act provides that "the "persons qualified to vote at elections for church offi- "cers, shall be male persons of full age, who shall have "belonged to the Church or congregation, for the last "twelve months preceding the election, and who shall "have been baptized in the Episcopal Church, or shall "have been received therein, either by the rite of con- "firmation, or by receiving the holy communion, or by "purchasing or hiring a pew or seat in the said Church, "or by some other joint act of the parties and of the "Rector—that the voters, on a certain day in every "year, shall, by a majority of voices, elect two church- "wardens and eight vestrymen—and that the church- "wardens and vestrymen, so elected, shall have "power to call and induct a Rector, as often as a va- "cancy happens therein, and to take into their pos- "session, and management, all the temporalities belong- "ing to such Church or congregation."*

Keeping in view the wise intention of the Legislature, the act, thus carefully, confines the right of voting for church officers to the persons who shall have belonged to the church, or congregation, for the last twelve months preceding the election. It did not require the gift of prophecy to foretell, that if the members of distinct corporations were to possess the right of voting in common, so that the members of each corporation would be entitled to vote for the officers of all, it would open a door to mischiefs, dangerous to the peace of religious societies, and hurtful to the growth of genuine religion. Two congregations, for example, might combine to oppress a third, and, by superior numbers, on the day of election, might force their own

[* R. S. vol. iii. p. 292.]

creatures into office; and creatures, thus brought into public life, might appoint or continue a rector, against the decided opinions and wishes of the minority; a rector too, whose preaching the majority, being members of other congregations, might seldom or never attend to hear. The same creatures might also manage the temporal affairs of the congregation in a way, believed by the minority, to be destructive of their interests.

Could folly or wickedness contrive a scheme of spiritual intolerance, more wounding to the sensibility of a religious people, and more reprobated by the generous principles of our State constitution? Let the sincere professors of religion, and the patriotic framers of the constitution, answer the question.

Taking this to be the true construction of the act for incorporating religious societies, it may be laid down as a position, not to be controverted, *that the members of every new corporation are limited in the exercise of their elective franchise, to the choice of their own church-wardens and vestrymen; and that they cannot rightfully intermeddle with the elections of other new corporations.*

As the words *church* and *congregation* are used in the act, as synonymous terms, it seems to be a position, equally incontrovertible, *that the members of the congregation of Trinity Church are not entitled to vote at the elections of the new corporations*; for the simple reason that *such members do not pretend to belong to the congregations of these corporations*; unless it be maintained that the act does not apply to the Episcopalians in the city of New-York; a proposition that would go the length of dissolving every new corporation in the city.

The next inquiry is—whether the members of the congregations of the new corporations have a right to vote at the elections of the corporation of Trinity Church?

The foundation for the claim of this right is the single

circumstance, that the charter incorporates "all per-"sons inhabiting, or to inhabit, the city of New-York, "and in communion with the Protestant Church of "England."

These general words of the charter, when the real meaning of the grantor is extracted from them, will be discovered to afford but a slight pretext for the claim.

The charter, like every other grant, must be interpreted with reference to the actual state of things at the time it bears date. Looking from this ground, we shall see that the State, at the date of the charter, was a province of Great Britain, and consequently subject to its laws. The Protestant Episcopal Church was the established Church of the mother country; and the crown, in its beneficence to the Episcopalians in the city of New-York, naturally sought to place Trinity Church on a footing as similar to that of the Church of England as local circumstances would permit. The population of the city, at the same period, was so inconsiderable, that the whole number of Episcopalians on the Island was not sufficient to fill the building already erected for public worship.

On the other hand, the great Revolution, which accomplished the independence of our country—the rapid increase of the population of the city—and the new Episcopal corporations, which have sprung from the loins of these fruitful parents, being out of the reach of human foresight, could not be provided for by the liberal founder of Trinity Church.

Thus viewiug the state of things, at the date of the charter, and revolving the deplorable weakness of man, whenever he attempts to form plans to meet the exigencies of posterity, it should not be treated as strange, that the founder of Trinity Church thought it proper to make the *island of New-York but one parish*, and *Trinity Church the only parish church.*

That the subject appeared to the founder, in this light, is proved as well by the scope as the words of the charter.

By a parish is meant, agreeably to the ecclesiastical polity of England, *the charge of a particular rector or priest*; and yet it is impracticable to mark out the limits of the charge with exactness. The bounds of parishes in England have never been defined by act of parliament, but have "been established as the cir-"cumstances of times, places, or persons happened to "make them greater or lesser."*

Generally speaking, a parish, in England, may be defined, *that certain compass of ground in the neighborhood of a church, which is occupied by the people worshipping in that church*: and with this definition, the practice of the Episcopal Church, in this State, has invariably corresponded.

From this doctrine of parishes it may fairly be inferred that a parish is attached to every new corporation, whose church, after being consecrated, has been admitted into union with the Episcopal Church in the State; as there is no corporation without a minister to whose special charge its congregation is committed.

It will not be disputed that the benefits of the charter were designed for the parishioners of the parish of Trinity Church; and it is conceded, that the original limits of the parish were co-extensive with the island; but to insist that such are the present limits of the parish, when we know that nine different parishes have been carved out of them, is just as preposterous as to insist that the district of country which, before the Revolution, composed the county of Tryon, still remains one county, when our statute book informs us it has been divided into many counties.

The conclusion of law is, *that the extent of the original parish of Trinity Church is reduced in proportion to the mass of parishes attached to the new corporations.*

Have any of the parishioners reason to be dissatis-

* Burn's Ecclesiastical Law. 133. Jacob's Law Dictionary, by Tomlin, title *Parish.*

fied with the reduction of the parish of Trinity Church? None can be imagined. The formation of the new corporations was the voluntary act of the parishioners who formed them; and the present parishioners of Trinity Church are bound by the act of their Vestry, who assisted in forming some of the corporations, and gave their assent to the existence of others after they were formed.

With confidence then it may be asserted, that the Episcopalians inhabiting the city of New-York, are not all of them *parishioners* of the *parish of Trinity Church.* Such of them as are members of the new corporations, have become *parishioners* of the *parishes* attached to them; the legal effect of which is *virtually to dissolve their connection with the parish of Trinity Church.*

It is no less demonstrable, *that the Episcopalians, who are accustomed to take the sacrament in the new churches, are not the communicants intended by the charter.*

By the discipline of the English Church no person can, at the same time, be a regular communicant in two separate parishes, under the care of different and independent rectors. The canons of the church particularly direct that "the sacrament shall not be ad- "ministered by the rector of one parish to the parish- "ioners of another, without the licence of the rector "of the latter parish; except to travellers, to persons "in danger of death, or in cases of necessity."*

The rector is authorized, under certain circumstances, to refuse the sacrament even to his parishioners; and, to be regular, the parishioners should communicate at least thrice in every year.†

The only legal evidence that the parishioner is a communicant, is his receiving the sacrament in the parish church; and the rector cannot take notice of the receipt of the communion in other parishes.

* 1 Burn's Ecclesiastical law, 677. † Ibid, 682.

Prior to the Revolution, if a person, residing in Dutchess county, had removed to the city of New York, he would not have been recognized, within the purview of the charter, as a communicant qualified to vote, without taking the sacrament in Trinity Church or one of its chapels; notwithstanding, he might previously have received the sacrament in the Episcopal church at Poughkeepsie, and thus have been in communion with the English Church. Still less would the taking of the sacrament from the hands of a priest, not officiating in Trinity Church, or either of its chapels, but acting independently of the rector of Trinity Church, and within the limits of his parish, have conferred this privilege. Such conduct would have been deemed an offence against ecclesiastical discipline, both in the priest administering, and in the parishioner receiving the sacrament; and it is an undeniable position in law, that no right can be derived from the commission of a wrong.

Upon these principles it was constantly maintained, before the Revolution, that no persons, but inhabitants of the city, and who communed in Trinity Church, or one of its chapels, were entitled to vote under the charter.

The third section of the act entitled, "An act for "making such alterations in the charter of the corpo- "ration of Trinity Church, as to make it more con- "formable to the constitution of the State," passed 17th April, 1784, embraces the same principles with respect to communicants, by restraining the privilege of voting to such inhabitants of the city, "as shall, *in the said* "*church*, partake of the holy sacrament of the Lord's "supper at least once in every year."

Some contend that this section, by using the words "*the said church*," refers to the *spiritual body* of the *Church*, and not to the *building of Trinity Church*; and hence they argue that *communicants* in *any other Episcopal Church*, are qualified to vote.

It will much assist our search after the true import

of the words, "*the said church*," we take the entire section, with its preamble, into consideration, and proceed, at once, to ascertain the objects for which it seeks to provide.

Bearing in mind the title of the act just quoted, it is worthy of notice, that, after declaring the manner of inducting the rector, as prescribed by the charter, to be inconsistent with the letter and spririt of the constitution, the act substitutes a different mode of induction, by vesting the church-wardens and vestrymen of the corporation with "full power to induct a *rector to* "*the said church*, as often as there shall be a va- "cancy."

Here the term *church* leaves no room for inference. By not referring it to *Trinity Church* we torture it into a sense that will defeat the very exercise of the power to induct a rector. Then comes the following section, with its preamble, which defines the qualifications of the persons who were thereafter to be considered as members of the corporation.

"And whereas doubts have arisen on those parts "of the said charter and law* first above mentioned, "which speak of inhabitants in communion of the "said Church of England; for removal whereof

"Be it further enacted by the authority aforesaid, "that all persons professing themselves members of "the Episcopal Church, who shall either hold, occupy, "or enjoy a pew or seat in *the said church*, and shall "regularly pay to the support of the said church, and "such others as shall in *the said church* partake of "the holy communion of the Lord's supper, at least "once in every year, being inhabitants of the city and "county of New York, shall be entitled to all the "rights, privileges, benefits, and emoluments which, in "and by the said charter and law first above men-

* See law [of 1704] in vol. i. page 60, of Van Schaack's edition of the Colony Laws, which enacts the charter almost in *totidem verbis*.

"tioned, are designed to be secured to the inhabitants "of the city of New York, in communion of the "Church of England."

Philologers derive the word *church* from the Greek word Κυριακον, signifying *the Lord's house*; that is, a building dedicated to the service of God. This is certainly the common acceptation of the word; but it is nevertheless sometimes employed to denote the *church general*, being the collective body of Christians throughout the world; at other times the *church particular*, being a body of Christians holding *special tenets*, or adhering to a *precise form of worship*; and, at other times, no more than a *single congregation.*

It is asked then whether the word *church*, in the section cited, means *a building dedicated to divine service?* or whether, applying the question more directly to the case in hand, we are to understand by the word, *the building of Trinity Church?*

A satisfactory answer to this question will call to our recollection that, in expounding a statute, we are to presume—that the legislator used words in their most usual signification—that he had the subject matter constantly in mind—that all his expressions were directed to a reasonable end—that his train of thought was uniform—and that he intended to infuse, into every part of the statute, the same spirit.

By the help of these rules the doubts relative to the meaning of the word *church* will be easily removed.

In the first clause of the section before us, the legislator declares that those inhabitants of the city shall be members of the corporation of Trinity Church, "who shall hold, occupy, or enjoy a pew or seat in "*the said church.*"

These words cannot possibly be satisfied otherwise than by interpreting the word *church*, according to its common acceptation, to mean a *building dedicated to the service of God.* By applying the word to the *church general*, or to the *church particular*,

such, for instance, as the *Episcopal Church* in the State, we shall be puzzled to find a pew or seat, without the exertion of supernatural powers in favor of the attempt—Miracles, we are told, have ceased.

Now, if a *building*, *dedicated to the service of God*, was intended, that building, in all rational construction, must have been *Trinity Church.*

The legislator speaks, in the act at large, of many of the inhabitants of the city as members of the corporation of Trinity Church—of the induction of a rector—and of the necessity of altering the charter, so as to make it conformable to the constitution of the State. Indeed, the whole subject, which engages his mind, appears to be *that corporation* and *its charter.* It would, therefore, be a very unnatural exposition of the section to apply the word *church* to *any building* except *one* belonging to the *corporation of Trinity Church*; and the more so as Trinity Church and its chapels were the only Episcopal buildings in the city at the time. Besides, it will be difficult, without grossly insulting the good sense of the legislator, to suppose that he required the inhabitants of the city to hold pews or seats in country churches; or that he expected the members of the *church general*, or of the *church particular*, in other words, the *Episcopal Church in the State*, by contributing to the support of either of those churches, would acquire any rights in the corporation of Trinity Church.

In the second clause of the section the legislator farther declares, that "such others" shall also "be "members of the corporation as shall, *in the said* "*church*, partake of the holy sacrament of the Lord's "supper, at least once in every year, being inhabitants "of the city of New York."

As this clause expressly enjoins it upon the communicants, to take the sacrament *in the said church*, we must, out of decency, admit, that a building in which the sacrament might be administered, was in the legislator's eye; or else we must attribute to him

a want of due reverence for that most holy ordinance.

It cannot reasonably be doubted that the *building* here also meant by the legislator was *Trinity Church.*

In fixing the qualifications of corporators, the legislator judged it expedient to give them pews and seats in *Trinity* Church; and this church is the last antecedent to that in which the communicants are to partake of the sacrament. Why, therefore, should we imagine that the legislator, in one clause, meant to make the holding of a pew or seat in Trinity Church an indispensible qualification of membership, and that, in the clause next succeeding, it was his intention to allow the communicants of different churches to be members? Would not this singular change of mind justly expose the legislator to the charge of fickleness? And to this charge might there not as truly be added, the serious imputation of willfully violating the settled discipline and ancient practice of the church; by obliging the vestry of Trinity Church to acknowledge, as their communicants, men who regularly took the sacrament in churches entirely free from their control?

It follows, as a necessary consequence, that the true meaning of the section, under consideration, requires the *inhabitants of the city* to *communicate*, or *to hold pews or seats*, in *Trinity Church*, in order to qualify them to be *members of its corporation.*

If, in fact, the section stood alone, and doubts arose as to its true meaning, they would instantly be dispelled by construing the section in connection with the title and other parts of the act. The express purposes of the act are to *relieve* and *benefit Trinity Church*; and wherever the word *church* occurs, without designation or epithet, it will be found that *Trinity Church* alone is contemplated by the legislator.

Admitting the premises to be true, and the reasoning from them to be just, we shall be authorized to conclude *that the members of the new corporations*

have no vested rights in the corporation of Trinity Church; and, of course, that the right of election cannot, as the first objection of the Council supposes, be "divested or impaired by the limitation provided by "the bill."

Because,

1. The members of the new corporations are not parishioners of the parish of Trinity Church.
2. They are not communicants in that church.
3. They do not hold pews or seats in that church, or contribute to its support.

That a great majority of the members of the new corporations believe their alleged right to vote at the elections of Trinity Church, to rest on a sandy foundation, is plain from the stubborn and important fact that, although Christ's Church was incorporated in the year 1793, yet not a single member of either of the new corporations offered to assert his right until the election of 1812; a long period of nineteen years.* And it is more than probable that, even then, the right would not have been asserted, but from an expectation that it might serve the cause of Mr. Jones.

For the sake of argument, however, let it be granted that the erection of the new corporations, with the joint assent of the corporators, and the Vestry of Trinity Church, has not the legal consequence of *virtually dissolving* the connection of the parishioners of the new churches with the corporation of Trinity Church.

This concession being made, we may properly ask —What is the real situation of the Episcopal churches in the city of New-York? If the *island* still remains *one parish*, and the numerous Episcopalians inhabiting it, continue *one body corporate* by force of the general terms of the charter, must not *Trinity Church* be the *parish church*, and the *new churches its cha-*

[* Since the year 1813, the offer to assert such right has never occurred but once, and that was after the lapse of more than thirty years. See Remonstrance of Corporation of Trinity church, presented in the Senate, January, 20th, 1846.]

pels? If the new churches are chapels of Trinity Church, must they not be subject to the authority of its vestry? And, if subject to its authority, what becomes of the several rectors, church-wardens, and vestrymen of the new corporations? Does not the existence of these rectors, church-wardens, and vestrymen operate a direct violation of the charter of Trinity Church, which provides only for *one rector* and *one set of church-wardens and vestrymen?*

If, on the contrary, the new churches are not chapels of Trinity Church, what are the specific rights of the new corporations, each of which is a part of the flesh and blood of the corporation of Trinity Church? And what, at the same time, are the specific rights of the mother corporation? Or is there a perfect community of rights between all these corporations? And, by reason of this community, are the congregations of the new corporations, from their greater numbers, to rule the corporation of Trinity Church, by electing, out of their own members, the church-wardens and vestrymen of Trinity Church?—men perhaps averse to its views and interests, and who may perversely appoint or continue obnoxious ministers, and injuriously manage or sell its estate? And, for such gracious rule, are the members of the corporation of Trinity Church to possess the right of voting at the elections of the new corporations, and to hold an interest in their property? What then is the operation of the clause of the act, for incorporating religious societies, which confines the right of suffrage to persons, in each congregation, who shall have belonged to it for the last twelve months preceding an election? And what the operation of the grants of real estate already made to the new churches by the corporation of Trinity Church?

Endowed, as the subscriber is, with no more than a plain understanding, he frankly confesses himself incapable of answering these questions; and he presumes to say, that the profoundest casuist would be

perplexed to answer them with plausibility. The truth is, that they present a shapeless mass of incongruous pretensions, which, if suffered to exist, must engender disputes injurious to the peace of the Episcopal Church, and dishonorable to religion. And surely all the disciples of Christ, in every relation of life, are bound, by his example and precepts, to be earnest in their endeavors to prevent divisions, and establish peace among their Christian brethren. These interesting objects would be happily gained to the Episcopal Church by the wise provisions of the second section of the bill. The real office of this section, when maturely considered, will be found, not to "divest or "impair" the right of voting, but to limit, by express words, a right previously limited, and in the same degree, by the sound construction of law, upon the act for incorporating religious societies, and the creation of new corporations under it, with the joint consent of the corporators and Trinity Church.

It is common for legislative bodies, in novel and special cases, which have eluded the penetration of former legislators, to pass acts, in the nature of declaratory acts, to pluck up discord and litigation by the roots, that general quiet may be promoted. Such acts resemble bills of peace in chancery; examples of which must be familiar to a tribunal so enlightened as the Council.

By showing that the members of the new corporations are not also members of the corporation of Trinity Church, we have put at rest all questions respecting their supposed right to the corporate property.

Members of every corporation have an interest in its estate, while they continue members, and no longer. A right to the corporate property is strictly local in its enjoyment. Whenever a corporator removes and settles permanently, without the precincts of the corporation, his franchise "ipso facto" ceases. Thus, if an inhabitant of the city of New-York quits the city, and takes up his residence in the county of Westchester, he relin-

quishes his rights as a member of the city corporation, and he cannot resume them in any other way than by returning, and again fixing his residence in the city.

These principles, being indisputable, prove the futility of the claim, which the members of the new corporations make to the estate of the corporation of Trinity Church. By voluntarily leaving the parish of Trinity Church—by entering into other parishes—by neglecting to hold pews or seats in Trinity Church, and not contributing to its support—and by never communing in that Church, the members of the new corporations have divested themselves of their corporate characters, and put an extinguisher upon their rights, in the corporation of Trinity Church. To revive these rights, they must comply with the requisitions of the charter and act of 1784; and without such compliance they can have no valid claim to any part of the corporate estate.

The legal estate of every corporate body is vested, not in the individual corporators, but in the corporation itself. There can be no doubt, however, that the estate is a trust for the benefit of the corporators.

By the policy of law corporate bodies are forbidden to be seized to a use; but the same policy permits them to be vested with a trust. Hence, if the members of the new corporations actually have an interest in the estate of the corporation of Trinity Church, they can only be interested as *cestui que* trusts.*

Private persons, acting as trustees, are compellable by a court of equity, in cases of neglect, refusal, or fraud, to execute their trusts according to the nature of them: and it matters not, in that court, whether the trustees, instead of private persons, are officers of a corporation. In every event the Chancellor, upon application for the purpose, will decree a trust to be executed under his direction.

Allowing, therefore, the members of the new corporations to be *cestui que* trusts of the estate of the

* 2 Bacon 11. Sanders on Uses, 227. 1 Vesey, 467, 536.

corporation of Trinity Church, the proviso, in the last section of the bill, completely protects their interest; and it can be no farther "nugatory" than any other creation of a trust, in which the *cestui que* trust has had no share in the choice of the trustee appointed to dispose of the trust estate; instances of which occur in every day's practice.

Upon the idea that the bill, if passed into a law, would, in substance, be a declaratory act, the subscriber is sanguine in his hopes, that it will receive the approbation of the Council. But thinking, as he does, of the solidity of the ground on which the bill has been brought forward, he would be censurable for despairing of the Council's approbation, *even if the right of suffrage was clearly with the members of the new corporations.*

The case, in the Journals of the Assembly, to which the Council refers, as unfolding principles analogous to those of the bill, is that of *private property*, and not of the *elective franchise of a corporation.*

As this distinction is decisive of the favorable reception, which the bill merits from the Council, the subscriber, in a few words, will endeavor to explain the principle, and state the facts on which the distinction is taken.

The principle assumed is this—that although the Legislature has ever been inflexible in its resolution to preserve the inviolability of private property, yet it has, from time to time, exercised its discretion in moulding the elective franchise of corporations into new shapes, the better to adapt it to the changes occasioned by the freedom of our government and the progress of society; the one being considered as a subject too sacred to be touched; and the other as a subject fit to be carefully handled.

This principle is fairly deducible from the following Legislative cases.

1. The charter of the city of New-York declares that the bounds of the city shall "cross over to Nas-

"sau Island to low water mark, there including Great-
"Barn Island, Little-Barn Island, and Manning's Is-
"land, and from thence all along Nassau Island shore,
"at low water mark, unto the south side of Red-Hook."
And it grants to the corporation "the sole, full, and
"whole power and authority of settling, appointing,
"establishing, ordering, and directing, such and so
"many ferries round Manhattan's Island, (alias New-
"York Island) for the carrying and transporting of
"people, horses, cattle, goods, and chattels, from the
"said Island of Manhattan's to Nassau Island, and
"from thence back to Manhattan's, and also from the
"said Island Manhattan's to any of the opposite shores,
"all round the same island, in such and so many pla-
"ces as the Common Council, or the major part of
"them, shall think fit; with full power to let, set, or
"otherwise dispose of all or any such ferries to any
"person or persons whomsoever." And it farther grants "the rents, issues, profits, ferriages, fees, and "other advantages arising and accruing from all or "every such ferries," unto the Corporation for ever.

Here we find an absolute grant to the Corporation, of an *exclusive right* to transport goods and merchandize from New-York Island, to low-water mark on Long-Island, and also from thence to New-York Island. This right the Corporation had possessed, without any interruption, for more than a century. And the palpable aim of the bill entitled, "An act "granting relief in certain cases to the inhabitants of "the city of New-York, and to the inhabitants of the "town of Brooklyn, in King's county," was to disturb the corporation in the possession of the right, and, in the end, to defeat it.

Can imagination conceive a more flagrant invasion of the right of private property? If the "salutary prin-"ciples of the constitution" ever required the submission of a case to judicial cognizance, most assuredly it was this case. All good men, therefore, must applaud

the Council for assisting to strangle, in its birth, this "lusus naturæ" of legislation.*

2. The right to choose charter officers, in the city of New-York, is conferred, by the charter, *exclusively* upon "the freemen and freeholders, being inhabitants "of the city." An act was passed in 1804, not upon the application of the corporation, but against its pointed remonstrance, by which the right was extended to "every male citizen of this State, or of any of the "United States, of the age of twenty-one years and "upwards, who shall have resided in the said city for "the space of six months preceding an election, and "shall, during that time, have rented a tenement of the "yearly value of twenty-five dollars, and have paid any "taxes within the said city, and is not disqualified by "law."

While this act, with one hand, extended the right of voting to a new class of citizens, it broke, in pieces, with the other, the contract with the original corporators; by indirectly taking from their right its exclusive quality, and thereby dissipating the consideration and influence, accompanying it; all which was done against the positive stipulations of the charter.

The original corporators were then placed in a situation like that, in which Decius would be placed, by an act of the Legislature, which, declining directly to forfeit the moiety of his farm, should nevertheless prescribe that Lucius should hold it with him, in common, and in equal shares.

3. The act of 1784, before considered in part, professes, in several of its recitals, no other ends than "such alterations in the charter of the corporation of "Trinity Church, as to render it more conformable to "the constitution of the State." We have seen, however, that the alterations, instead of stopping at this point, go far beyond it, and, in effect, annihilate the *exclusive* right vested in the communicants to vote for

* See objection of the Council, in page 69.

charter officers, by dividing it with those who shall hold pews, or seats, in Trinity Church, and contribute to its support. The preamble to the particular section making this fundamental change, affects to doubt the meaning "of those parts of the charter and law "which speak of inhabitants in communion of the "Church of England;" and the doubts affected are the ostensible reasons for new modelling the qualifications of the voters. Whereas the preamble was obviously used, as preambles too often are, to cover the design. The language of the charter and law* is no less intelligible, than its meaning is clear, and the mind, that could doubt whether communicants alone are entitled to vote, must have been incurably diseased with skepticism. Be it likewise noticed, that the Legislature was not urged, either by the *letter* or *spirit* of the *constitution*, to *refuse to the communicants the continuance of their exclusive right of suffrage.*

4. In the year 1752 a charter was granted to Alexander Colden and Richard Albertson, making them, and their successors, a body corporate, by the name of "the Trustees of the Parish of Newburgh." The real intent of this charter was to incorporate the inhabitants of a tract of land, called the *German Patent*, in the present county of Orange, and comprising two thousand acres and upwards, for the purpose of settling on the tract "a good and sufficient minister of "the Church of England, as by law established, to take "care of the souls of the inhabitants;" and also of providing "a good and sufficient school-master to teach "and instruct their children." And, the better to fulfil the intent of the charter, a grant of five hundred acres of land was made to the trustees and their successors, as a glebe, for the use of the minister and school-master. Upon the death, disability, or absence of the trustees, or either of them, or their successors, the charter authorizes "*all the inhabitants of the*

* See the note in page 21.

"*tract, being males, and above lawful age*, to "assemble at any time, or times, upon some part of "the glebe, and, by a majority of votes, to elect other "trustees, or trustee, in the room of the trustees, or "trustee, deceased, disabled, or absent."*

It happened that years elapsed without the services of a settled minister on the tract, according to the intent of the charter; and the result was, that differences arose between the Episcopalians and Presbyterians concerning the use of the glebe. These differences stirred a question about the right of voting for trustees; the Episcopalians asserting that no persons, but of their sect, were entitled to vote; and the Presbyterians advocating a right, in common with males of every other religious denomination, if inhabitants of the tract, and not under lawful age.

The colour which these Episcopalians had for their *exclusive right*, and that which the members of the new corporations have for their *right in common*, when viewed with a microscopic eye, will be found to be nearly equal.

At one of the elections for trustees two Presbyterians were chosen; and they, with about one third of the inhabitants and freeholders of the tract, preferred a petition to the Legislature, praying amendments to the charter.

The application succeeded; and thereupon an act was passed, in 1803, entitled, "An act to alter and a-"mend the charter of the glebe land, in the German "Patent, in the village of Newburgh." By this act, whose declared motive is "to meet the interest and "convenience" of the inhabitants, the right of voting was expressly given to all "the inhabitants residing in "the patent who shall have a right to vote at the an-"nual town meetings."

The only qualifications which the common law annexes to a man, in order to render him an inhabitant,

* 3 Johnson, 115.

are those of being a householder and a resident in the place. It is not requisite that he should reside in the place for a certain length of time—that he should have an interest in the soil—or that he should pay taxes.*

The inhabitants whose character comports with this description, are the voters intended by the charter; and the law pronounces their right to have been openly violated, when the Legislature, in substance, though not in words, directed that the voters should be no others than those "male citizens above the age of "twenty-one years, who shall have resided in the town "six months next preceeding the election, and paid "taxes within the same—or shall be possessed of a "freehold—or shall have rented a tenement of the "yearly value of five dollars for the term of one year within the same."

By this radical alteration of the charter, the right of suffrage, instead of being extended, was contracted within much narrower limits.†

That the cases cited to establish and illustrate the principle assumed, as the guide of the Legislature, have a heavy bearing on the bill reviewed, must strike the most superficial observer.

The bill cautiously abstains from touching the right of property; and to guard against the possibility of any violation, the right, if existing at all in the members of the new corporations, is amply protected by the proviso added to the last section.

In the same spirit of caution the bill avoids every attempt to new-model the elective franchise. Without increasing or diminishing the qualifications of

* Jacob's Law Dictionary by Tomlin, letters *I. N. H.*

† The Act entitled "An Act to increase the number of Wards in the City of New-York, and to equalize the same," passed 8th March, 1803, is another instance of the exercise of the discretion of the Legislature in new modelling the elective franchise. This Act was passed without any petition from the Corporation for the purpose, and it increases the number of wards in the city and the quorum of the Common Council against the express stipulations of the charter.

voters, it is content to effectuate the real intentions of the charter and act of 1784, by *substantially declaring that the members of the Congregation of Trinity Church shall be the only persons entitled to vote at elections for the choice of its charter officers.*

Supposing the bill had undertaken to new model the elective franchise, it would, from the cases cited to that point, have been fully justified by the practice of the Legislature. These cases appear to have originated in events, very extraordinary in their cast, and impossible to be foreseen by the grantors of the charters. When, therefore, we acknowledge that the discovery of nearer events transcended the natural powers of our ancestors, we should not feel surprised at their want of ability to descry events at a greater distance. Alas! alas! far from indulging surprise at what our inflated pride would call the deficient sagacity of our ancestors, we ought to give way to the noble affections of our nature, and by imitating the piety and patriotism of our venerable progenitors, we should strive to pay the debt of gratitude, justly due to their memories, for leaving us the invaluable inheritance of civil and religious freedom!

The almost unexampled increase of the population of the city of New-York—the act for incorporating religious societies—and the consequent forming of new corporations from the rib of Trinity Church—are also events too extraordinary to have been foreseen. These events have created an unexpected and portentous crisis in the affairs of Trinity Church! A crisis which Lawyers, of skill and adroitness, may render subservient to a series of litigation that would tarnish the honour of the Church—distract her peace—and endanger her property! With deep solicitude to avert these mischiefs, and suffering from the wounds which her unhappy children have recently inflicted in her bosom, Trinity Church presents herself before the Council, and, in the eloquent language of distress, she

entreats the members to favor her bill with the most dispassionate and mature deliberation.

Will it be said that Trinity Church has no claims on the patronage of government? Can she not glory in having produced, in our revolutionary struggle, some of the illustrious defenders of our civil and religious liberties? Is she not connected with a very ancient, numerous, and respectable congregation? Has she not freely dispensed her wealth in building churches, supporting the clergy, and advancing literature in different parts of the State?

These questions swell the breast of the subscriber with a lofty pride; but delicacy restrains him from answering them, lest he should be thought to suspect the liberality of the Council.

As the charter appoints Tuesday, in Easter week, for holding the annual elections for church-wardens, and vestrymen, without any authority to adjourn over, the common law imposes it on the inspectors to close the poll on the same day. By force of this injunction the want of opportunity would deprive many Episcopalians of their votes, provided all the members of the new corporations were admitted to the right of suffrage; and the strenuous efforts of the contending parties, to obtain the votes of their adherents, would be apt to beget scenes of confusion and tumult, scandalous to the Christian name, and threatening to public order.*

Besides settling the important question, relative to the elective franchise, and thereby preventing litigation, and establishing peace on a firm foundation, the bill, when passed into a law, would have the happy consequence of enabling the Vestry of Trinity Church from time to time, as society shall advance, to separate the churches with the consent of their congrega-

[* If such scenes were dreaded in 1813, what is to be apprehended in 1846, when instead of 12 there are 38 congregations?]

tions, and to endow them with competent estates. No power can be more congenial than this to the spirit of our republican systems. The frequent execution of the power likewise, by breaking down the estate of Trinity Church, would allay the fears of those honest republicans who look upon large estates as nurseries of sentiments hostile to liberty: and it would calm the minds of those enthusiastic devotees who believe that religious societies, when possessing wealth, seldom employ enough of it in the heavenly work of propagating the gospel.

The estate of Trinity Church is admitted to be considerable, although greatly reduced by the causes which have been stated. Certain wild calculations have rated it at millions; but this is a gross exaggeration! For several years past the income of the Church has fallen far short of its annual expenditures.

The bill, if a law, would also be attended with the benign effects of sanctioning the agreements of separation which the Vestry of Trinity Church has made with its own members, and of ratifying the conveyances of real estate executed by the Vestry to the new churches. Confirmations, so beneficial, could not well be opposed: and accordingly none of the parties in interest offered to remonstrate against them. Should our courts adjudge the conveyances to be ineffectual, the property will revert to the corporation of Trinity Church, where it was antecedently vested.

It is presumed that the charter of the corporation of Trinity Church, and its petition to the Legislature, both of which are hereto annexed,* together with the information interwoven with these remarks, will apprise the Council of "the existing doubts respecting "the rights and privileges given by the charter;" and will, moreover, furnish them with the means of judging whether any "vested corporate rights are violated

[* As the petition is incorporated in the Remonstrance lately presented to the Legislature and printed with it, it has not been included in the present reprint.]

"by the restrictions and provisions contained in the bill."

The subscriber cannot conclude these remarks without solemnly declaring, that no personal considerations have been permitted to mingle themselves with his zealous exertions to procure the passage of the bill through the two Houses of the Legislature, and with this very humble attempt to recommend it to the approbation of the Council. Appealing to his heart, he feels conscious of having been governed by a sincere opinion that the bill is predicated on principles perfectly correct; and that its final passage is demanded by all the motives which should influence the lover of religion—the friend of justice—and the discreet legislator.

And to this solemn declaration the subscriber begs leave to add, that he is—A Churchman. Born and educated in the bosom of the Episcopal Church—venerating her principles—and admiring her forms—he is not ashamed to avow his anxiety to preserve her peace, and to enlarge the sphere of her usefulness.

New York, 6th Sept. 1813. ROB. TROUP.

[*Addendum to Note on Page* 25.—A debt is, by the wise policy of the laws, outlawed and irrecoverable, unless it has been acknowledged by the debtor within six years before suit is commenced. Twenty years possession with claim of rightful ownership of land, (which the law has always considered the most sacred of all property,) is a bar to all recovery by another, let his claim be otherwise ever so just and equitable. Now suppose that D, instead of *indirectly* claiming a right to a part of the property, or to have a voice in the application or disposition of it, through the right of suffrage, made the *direct* demand of a specific share of that property, alleging that his right to it had been unconstitutionally interfered with, and that the assertion of such right was embarrassed by the law of 1814; would not the facts that such demand was thirty-two years ago declared by an act of the legislature to be illegal—that any such right had been continually denied ever since—that D has never pretended during all that time even to assert any such right, much less to prosecute his claim—and that nobody else, making the like claim, had done so for thirty years—or, in short, that the act of *settlement* and PEACE of 1814 had been universally acquiesced in for upwards of thirty years—be a conclusive answer negativing any such demand however and *wheresoever* it might be urged at the present time?]

CHARTER

OF THE

CORPORATION OF TRINITY CHURCH.

GULIELMUS, Tertius, Dei Gratia Angliæ Scotiæ Franciæ et Hiberniæ, Rex fidei Defensor, &c.

To all to whom these Presents shall come, sendeth greeting:

WHEREAS by an act of Assembly, made in the fifth year of our reign, entitled, "An Act for set-"tling a Ministry, and raising a Maintenance for "them in the City of New-York, County of Rich-"mond, Westchester, and Queen's County;" among other things therein contained it is enacted, that there shall be called, inducted, and established, a good sufficient Protestant Minister, to officiate and have the care of souls within our said city of New-York; and for his better encouragement to attend the said service, it is thereby further enacted, that there shall be annually, and once in every year, assessed, levied, collected, and paid for the yearly maintenance of the said minister, within our city and county of New-York, the sum of one hundred pounds, current money of our province of New-York; to be assessed, levied, collected, and paid in such manner and proportion as is further directed in the body of the aforesaid act, relation being thereunto had may more fully and at large appear. And whereas at the same time when the aforesaid act was made, there was not erected any public church or building within our said city, whereunto such a good sufficient Protestant Minister might have been inducted for his orderly officiating of his duty in the public worship and service of God, according to the rites and ceremonies of our Protestant Church of England established by our

laws. And whereas our trusty and well-beloved *Benjamin Ffletcher*, our captain-general and governor in chief of our said province of New-York, and territories depending thereon in America, hath, by his liberal and bountiful donations, as well as by his pious example, influenced many of our loving subjects, who have likewise religiously contributed according to their respective abilities, several sums of money, which, by our said captain-general's direction, have been employed and laid out for the erecting and building a church and laying the foundation of a steeple, within our said city, that the public worship and service of God, in manner aforesaid, might be more orderly and reverendly performed by the aforesaid minister. And whereas our loving subjects Col. Caleb Heathcote, one of our council of our said province; Major William Merret, mayor of our said city of New-York; John Tuder, James Emott, William Morris, Robert Lurting, Thomas Clarke, Ebenezer Willson, Samuel Burt, James Evetts, Nathaniel Marston, Michael Hawden, Thomas Wenham, John Crooke, and William Sharpas, citizens and inhabitants of our said city of New-York, and the present managers of the affairs of our said Church of England within our said city of New-York, have, by their petition presented unto our said trusty and well-beloved Benjamin Ffletcher, our said captain-general and governor in chief of our said province of New-York, and territories depending thereon in America, prayed our royal grant and confirmation of a certain church and steeple that hath been lately built within our said city of New-York; together with a certain piece or parcel of ground thereunto adjoining, situate, lying, and being in or near to a street without the north gate of our said city, commonly called and known by the name of the Broadway; containing in breadth on the east

end, as the said street of the Broadway rangeth northward, three hundred and ten feet, until you come unto the land lately in the tenure and occupation of Thomas Lloyd, deceased; and from thence towards the west, in length by the said land, until you come unto Hudson's River: and then southward along the said River three hundred and ninety-five feet, all of English measure; and from thence by the line of our garden eastward, unto the place of the said street in the Broadway where first begun. And that the said church, together with the cemetry or church-yard thereunto adjoining, may forever hereafter be dedicated and consecrated to the public worship and service of God, according to the rites and ceremonies of the Protestant Church of England, as now established by our laws; which said church and steeple, situate, lying, and being within our said city as aforesaid, having been built and erected at the charge of our said trusty and well beloved Benjamin Ffletcher, our said captain-general and governor as aforesaid, and of several other of our loving subjects, inhabitants within our said city and province. And whereas our said loving subjects, in their said humble petition, have likewise prayed that we would be graciously pleased, for the better accommodation and conveniency of the inhabitants of our said city of New-York, that the same church might be made parochial and incorporate into one body politic in fact and name, by the name of "The Rector and Inhabitants in Communion of the Protestant Church of England, as now established by our Laws;" and that, as such, they and their successors may have, hold, use, occupy, and enjoy all the rights, benefits, advantages, privileges, immunities, mortuaries, and appurtenances, as are usually held and enjoyed by all or any of our parochial churches, of our Church of England, within our realm of

England. And also, that we would be further graciously pleased to appropriate unto our said church, the aforesaid yearly maintenance of one hundred pounds, enacted by the aforesaid act, and make our further royal grant of a certain quantity of our land, near adjoining to the said church, unto the said petitioners, in trust for the use of our said church and corporation. *Now know ye*, that in consideration of the great charge that our said trusty and well beloved subject Benjamin Ffletcher, our captain-general as aforesaid, and the rest of our aforesaid loving subjects, inhabitants within our said city. &c. have been at in the erecting of the said church, and laying the foundation of a steeple; and the further great charge that must unavoidably accrue for the finishing the said church and steeple, and the providing it with suitable ornaments; as also for the erecting and providing a house, near the said church, for the habitation of a minister to officiate in the said church, in manner aforesaid, as well as of our pious inclinations to promote, propagate, and encourage all our loving subjects within our said province, in that reverend and godly duty in worshipping and serving God according to the commendable rites and ceremonies of our Protestant Church of England, as now established by our laws, have therefore thought fit, and do hereby publish, grant, ordain, manifest, and declare, that our royal will and pleasure is, and by these presents do grant and declare, that the aforesaid church, erected and built as aforesaid, situate in and near the street called the Broadway, within our said city of New-York, and the ground thereunto adjoining, enclosed and used for a cemetry or church-yard, shall be the parish church, and church-yard of the parish of Trinity Church, within our said city of New-York; and the same is hereby declared to be forever separated and dedicated to the service of

God, and to be applied thereunto for the use and behalf of the inhabitants from time to time inhabiting, and to inhabit within our said city of New-York, in communion with our said Protestant Church of England, as now established by our laws; and to no other use or purpose whatsoever, any statute, law, custom, or usage to the contrary in any ways notwithstanding. And that there shall be a rector, to have care of the souls of the inhabitants of the said parish, and a perpetual succession of rectors there. And we do by these presents constitute our right trusty and well-beloved the Right Reverend Father in God, Henry, Lord Bishop of London, and of our privy council, the first rector thereof. And we have further thought fit, and at the humble request of our said loving subjects, are graciously pleased to create and make him, our said right trusty and well-beloved Right Reverend Father in God, Henry, Lord Bishop of London, and his successors, rectors of the said parish, together with all the inhabitants from time to time inhabiting, and to inhabit in our said city of New-York, and in communion of our aforesaid Protestant Church of England, as now established by our laws, a body corporate and politic, with the powers and privileges hereinafter mentioned: And accordingly our royal will and pleasure is, and of our special grace, certain knowledge, and mere motion, WE HAVE ordained, constituted, and declared, and by these presents, for us, our heirs and successors, do ordain, constitute, and declare, that he the said right trusty and well-beloved Right Reverend Father in God, Henry, Lord Bishop of London, and his successors, and all such of our loving subjects as now are, or hereafter shall be admitted into the communion of the aforesaid Protestant Church of England, as now established by our laws, shall be from time to time, and for

ever hereafter, a body corporate and politic, in fact and name, by the name of "The Rector and "Inhabitants of our said City of New York, in "Communion of our Protestant Church of Eng- "land, as now established by our Laws;" and that by the same name, they and their successors shall and may have perpetual succession, and shall and may be persons able and capable in the law to sue and be sued, to plead and be impleaded, to answer and be answered unto, to defend and be defended, in all and singular suits, causes, quarrels, matters, actions, and things of what kind or nature soever; and also to have, take, possess, receive, acquire, and purchase lands, tenements, hereditaments, or any goods or chattels; and the same to use, lease, grant, demise, alien, bargain, sell, and dispose of at their own will and pleasure, as other our liege people, or any corporation, or body politic within our realm of England, or this our province, may lawfully do, not exceeding the yearly value of five thousand pounds; the statute of Mortmaine, or any other statute, law, custom, or usage to the contrary hereof in any ways notwithstanding. And that the said rector shall have the care of the souls of the inhabitants within the said parish, and in the communion of our said Protestant Church of England, as now established by our laws; and have and enjoy to him and his successors for ever, one messuage or tenement, and appurtenances, intended to be erected on part of the said church-yard, or near thereunto as conveniently as can be procured. And our royal will and pleasure is further, that the patronage, advowson, donation, or presentation of and to the said rectory and parish, after the decease of the said first rector, or the next avoidance thereof, shall appertain and belong to, and be hereby vested in the church-wardens and vestrymen, or the major part of the said vestrymen, together with

either of the church-wardens of Trinity Church for the time being; and that all the succeeding rectors of the said parish and parish church (except the first rector thereof hereby constituted) shall be presented, collated, instituted, and inducted as other rectors, parsons, and vicars respectively are accustomed to be. And we further declare it to be our royal will and pleasure, that the first rector, and all the succeeding rectors thereof, shall and may have, take, and enjoy, such and the like oblations, mortuaries, Easter-books, or offerings, and other ecclesiastical duties arising within the said parish of Trinity Church, as the vicar, rector, or parson of St. Mary Bow, within our city of London, in our realm of England, now enjoyeth; and shall have such and the like profits of burials in the said church as the same shall be limited in the instrument of dedication thereof. And we further declare, that the said rector of the parish of Trinity Church, in communion of our Protestant Church of England, within our city of New-York, as now established by our laws, shall and may, for ever hereafter, have a common seal, to serve and use for all matters, causes, things, and affairs whatsoever, of them and their successors; and the same seal to alter, change, break, and make new from time to time, at their will and pleasure, as they shall think fit. And further we will and ordain, and by these presents do declare and appoint, that for the better ordering and managing of the affairs and business of the said corporation, there shall be annually, and once in every year for ever, on the Tuesday in Easter week, two church-wardens and twenty vestrymen, duly elected by the majority of votes of the inhabitants of the said parish, in communion as aforesaid; which church-wardens and vestrymen shall be, from time to time, subject to our laws and statutes now in force, or hereafter to be made, for the

choice of church-wardens, overseers of the poor, and such other like parish officers, and other parochial duties within the said parish, in like manner as the inhabitants of any parish within our province are or might be subject and liable unto (except where it shall be otherwise hereby appointed.) And we do by these presents constitute and appoint Thomas Wenham and Robert Lurting the first church-wardens of the said parish; and Caleb Heathcote, William Merret, John Tuder, James Emott, William Morris, Thomas Clarke, Ebenezer Willson, Samuel Burt, James Evetts, Nathaniel Marston, Michael Hawden, John Crooke, William Sharpas, Lawrence Reade, David Jamison, William Huddleston, Gabriell Ludlow, Thomas Burroughs, John Merrett, and William Janeway, the first Vestrymen of the said parish; to have, hold, and execute their said respective offices till the feast of Easter, which shall be in the year of our Lord one thousand six hundred and ninety-eight. And the said church-wardens shall have and receive such and the like church duties and perquisites as the church-wardens of the said parish of St. Mary Bow do, may, might, or ought to receive; and shall be accountable for the same, and all other monies as shall come to them as church-wardens, in such manner as church-wardens of any other parishes within our city of London are or ought to be. And we further declare it to be our royal will and pleasure, that the rector, church-wardens, and vestrymen, shall make the number of the whole to be twenty-three persons; and the said vestrymen, or any eleven or more of them (whereof the rector for the time being, or his assistant, or clerk by appointment, and one of the church-wardens, to be two) shall and may have and exercise the like power and authority for the ordering and regulating the affairs of the said corporation

and parish of Trinity Church, as the vestry of the said parish of St. Mary Bow now have and exercise, in reference to parish affairs; and upon the death or other voidance of any such vestrymen, they, or any eleven or more of them, shall, and may elect a fit person, inhabitant and householder in the said parish, to supply the same. And we further ordain and declare, that the church-wardens for the time being, shall not, at any time, dispose of any of the pews, or places in pews in the said church, to any person not an inhabitant thereof, nor without the consent and allowance of the vestrymen for the time being, or any eleven or more of them. And our further will and pleasure is, and we by these presents declare, that the rector of the said parish for the time being, shall and may, by and with the consent of the said vestrymen and church-wardens for the time being, or any eleven or more of them, whereof one of the church-wardens to be one, from time to time, nominate one able Protestant minister, in priests' orders, to reside in the said parish, to be preacher and assistant to the said rector and his successors, in the celebration of the divine offices of praying and preaching, and other duties incident to be performed in the said church and parish, as the said rector shall require of him; and likewise to nominate a fit person to be clerk of the said parish, and one or more sexton or sextons; to which clerk or sextons, respectively, there shall be such and the like dues, fees, perquisites, and profits, paid and allowed, as shall be established by the said rector, church-wardens, and vestrymen, in manner aforesaid; which said preacher assistant, clerk, and sexton or sextons, and every of them, shall continue in his said place during his or their natural lives, if they shall so long inhabit there; except on some offence or misgovernment by them, or any of them, committed, and unless for

cause reasonable proved, they shall be displaced by the said rector for the time being, by and with the consent of the said vestrymen, or any eleven or more of them. And that the church-wardens of the said parish of Trinity Church for the time being, shall, and are hereby required, from time to time, to pay the yearly sum of ten pounds to the clerk, to be appointed as aforesaid, out of the profits and other the duties and perquisites to them accruing in the said church and parish, by four quarterly payments; that is to say, on the feast of St. Michael, the archangel, the Birth of our Lord and Saviour Jesus Christ, the Annunciation of the blessed Virgin Mary, and St. John the Baptist; or ten days after every of the said respective feasts, by equal and even portions. And we further ordain and declare, that the said church-wardens and vestrymen, or any eleven or more of them, are, by these presents, authorized and required, within the space and time of three hundred days next and after the sealing and enrolling of these presents, to make, or cause to be made, an estimate in writing, under the hand or hands of some sufficient person or persons qualified for the same, of the charge and finishing the said church and steeple, and providing a clock and one or more bells for the same, and other works necessary and requisite in and about the said church and steeple; and of building a convenient house for the said rector. And such sum or sums of money as shall appear to them, upon such estimate, to be in their judgment competent to accomplish the premises, and to satisfy and pay the debts incurred for or by reason of the said church, shall be by them, or any eleven or more of them, charged upon all and every of the inhabitants in the said parish; to be by them paid in seven years, by twenty-eight quarterly and successive payments: the first whereof to commence and be-

come payable to the church-wardens for the time being, who are hereby authorized to receive the same at the first of the feast days aforesaid as shall happen after the assessing and taxing thereof; and the rest to be successively to them also quarterly paid, at the successive feast days aforesaid, until all the said twenty-eight quarterly payments shall be made and finished. And the said church-wardens and vestrymen, or any eleven or more of them, are hereby required and authorized, within three hundred and sixty-five days next and after the sealing and enrolling of these presents, to assess, tax, and rate the first of the said quarterly payments after a pound rate or otherwise, as they shall think most reasonable, equal, and meet; and in like manner to assess every other of the said quarterly payments within forty days after the time of payment of the next preceding quarterly payment: all which said assessments shall be confirmed and allowed by two justices of the peace within the said parish, and in communion of the said church as aforesaid, under their hands and seals: and be collected by such persons, inhabitants of the said parish, as by the said vestrymen, or any eleven or more of them, shall, from time to time, under their hands and seals, appoint. And we further declare, that if the estimate and computation, to be made as aforesaid, shall not be sufficient to discharge the debts incurred about the building and finishing of the said church and steeple, and other the works hereby intended to be done, the said vestrymen, or any eleven or more of them, shall and may charge and assess such additional sum and sums upon the inhabitants of the said parish, in communion as aforesaid, as shall be needful to perfect and accomplish the same; so as such additional sum, together with the sum hereby charged and payable by the said twenty-eight quarterly payments, exceed not in the whole the sum of five hundred pounds.

And we further declare it to be our royal will and pleasure, that the church-wardens of the said parish of Trinity Church, shall cause all the debts, credits, and contracts, made and to be made, with or by the artificers and workmen employed, or to be employed for any work or building to be made or done in or about the said church, steeple, and premises, to be entered and registered in one or more book or books to be kept for that purpose; and the said vestrymen, or any eleven or more of them, out of the money collected and paid to the said church-wardens, upon the said quarterly payments, or by any other ways and means, for the use aforesaid, shall, in the first place, pay and discharge, or cause to be paid and discharged, all such debts as shall become due unto the artificers and workmen employed, or to be employed in and about the finishing the said church, steeple, house, and premises, and shall issue and pay, or cause to be issued and paid to the said artificers and workmen, as aforesaid, all and every sum and sums of money, now or hereafter due and payable unto them, their executors, administrators or assigns, proportionably according to the dates of the registering of their debts and credits as aforesaid, with moderate interest, if need shall be for their forbearance thereof. And we further declare, that the church-wardens for the said parish for the time being, together with any eleven or more of the said vestrymen, shall, upon the Tuesday in Easter week, yearly, for ever, or at any time within ten days after the said Tuesday, tax, rate, and assess the yearly sum of thirty pounds, upon the inhabitants of the said parish in communion as aforesaid, for the payment of the preacher assistant, to be nominated and appointed as aforesaid, and for the paying and defraying the other contingent charges that may yearly accrue within the said parish: which said assessment shall be confirmed and al-

lowed in such manner as other the assessments hereby appointed to be made as aforesaid, and be collected and paid yearly to the church-wardens for the time being, by such person and persons as the said church-wardens and vestrymen shall appoint, at the four usual or times of the year before mentioned: the first payment to begin and be made at that feast day next and after the said preacher assistant shall be presented and enter to assist the said rector in the said church, in manner aforesaid. And the said church-wardens, or either of them, shall pay the said yearly sum of thirty pounds, over and above all charges and deductions for collecting the same, to the said preacher assistant for the time being, to be nominated as aforesaid, upon the said four usual feasts or terms in the year, by even and equal portions. And we further ordain and declare it to be our royal will and pleasure, that the said church-wardens, together with eleven or more of the vestrymen of the said parish, shall, and are hereby authorized, from time to time, to make rates and assessments in manner aforesaid, for the repairing and amending the said church, steeple, cemetry or church-yard of the said parish, when need shall be; the said rates, taxes, and assessments for repairing and amending the church and premises, to be paid to the said church-wardens of the said parish, and those, and all other the said last mentioned taxes, rates, and assessments, to be made and collected, confirmed and allowed, as aforesaid. And moreover, of our special grace, certain knowledge, and meer motion, we do give, grant, ratify, and confirm, unto the said rector and inhabitants of our said city of New-York, in communion of our Protestant Church of England, as now established by our laws, that the said church and cemetry or church-yard, situate, lying, and being within our said

city of New-York as aforesaid, shall be the sole and only parish church and church-yard of our said city of New-York. And our royal pleasure is, and we by these presents do declare that the said rector of the said parish church is a good sufficient Protestant minister, according to the true intent and meaning of the said act of Assembly, made in the aforesaid fifth year of our reign, entitled, "An Act for the settling of a Ministry, &c.," and as such we do further of our like special grace, certain knowledge, and mere motion, give, grant, ratifye, endow, appropriate, and confirm unto the said rector of the parish of Trinity Church, within our said city of New-York, and his successors forever, the aforesaid yearly maintenance of one hundred pounds, directed by the said act of Assembly to be yearly laid, assessed, and paid unto the said sufficient Protestant minister, for his yearly maintenance. *To have and to hold* the said yearly maintenance of one hundred pounds aforesaid, unto him the said rector of the parish of Trinity Church within our said city of New-York, and his successors to the sole and only proper use, benefit and behoof of him the said rector of the parish of Trinity Church within our said city of New-York, and his successors forever. And we do, by these presents, strictly charge, require and command the church-wardens and vestrymen yearly constituted, elected, and appointed by the aforesaid act of Assembly, made as aforesaid, that they faithfully, truly, and without fraud, annually, and once in every year, forever, levy, assess, and collect the said yearly maintenance of one hundred pounds, current money aforesaid, according to the rules, directions, and clauses in the said act of Assembly mentioned, and under the pains and penalties therein contained. And that the said church-wardens mentioned in the aforesaid act of Assembly do an-

nually, in four quarterly payments, pay the said yearly maintenance of one hundred pounds, levied, assessed, and collected as aforesaid, unto the said rector of the parish of Trinity Church, and to his successors, forever, as of right they ought to do, without any delay, let, hindrance, refusal, disturbance, or molestation whatsoever, as they and every of them will answer the contrary under the pains and penalties in the said act of Assembly ordained. And we further declare, that upon any neglect or refusal of the said church-wardens and vestrymen appointed by the said act, of their levying, assessing, collecting, and paying the said yearly maintenance of one hundred pounds as aforesaid, that it shall and may be lawful for the said rector or incumbentof the said parish for the time being, to prosecute the said church-wardens and vestrymen, in an action of debt, in any of the courts of record within our said province, wherein no essoin, protection, or wager of law shall be allowed, any thing contained in the said act to the contrary hereof in any ways notwithstanding. And we do of our like special grace, certain knowledge, and mere motion, give and grant unto the said rector and inhabitants of our city of New-York, in communion, &c. full power and authority, from time to time, to appoint, alter, and change such days and times of meeting as they shall think fit, and to choose, nominate, and appoint so many others of our liege people as they shall think fit, and shall be willing to accept the same, to be members of the said church and corporation and body politic, and them into the same to admit; and to elect and constitute such other officer or officers as they shall think fit and requisite for the orderly managing and despatching of the affairs of the said church and corporation, and their successors; and from time to time to make, ordain, and con-

stitute, or repeal such rules, orders, and ordinances, for the good and welfare of the members of the said church and corporation, so that those rules, orders, and ordinances be not repugnant to the laws of our realm of England, and of this our province. And we further declare, and by these presents do give, grant, license, and permit unto the said rector and inhabitants, &c that the said churchwardens and vestrymen, or any other appointed by them, may, from time to time, and at all times hereafter, upon the Lord's day, after divine service, or at any other time or times when they shall think it convenient, take and receive the free and voluntary gifts, alms, contributions, and offerings of all or any of our loving subjects; which collections, gatherings, or receivings, shall be employed by them for and towards the finishing of the said church, steeple, and premises, or any other pious and charitable work, as to them shall seem meet and convenient, any statute or law to the contrary hereof in any ways notwithstanding. *To have and to hold* all and every of the premises, together with all and singular the rights, customs, usages, benefits, members, advantages, advowsons, presentations, mortuaries, oblations, offerings, fees, perquisites, profits, royalties, hereditaments, and appurtenances whatsoever, unto the said church, church-yard, and premises belonging, or in any ways appertaining unto them the said rector and inhabitants of our said city of New-York, in communion of the Protestant Church of England, as now established by our laws, and their successors, to the sole and only use, benefit, and behoof of them, the said rector, inhabitants, &c., and their successors forever, to be holden of us, our heirs and successors, in free and common soccage, as of our manor of East Greenwich, in our county of Kent, within our realm of England; yielding, rendering, and paying therefor, yearly and every year, unto us,

our heirs and successors, on the feast day of the Annunciation of our blessed Virgin Mary, at our city of New-York, the yearly rent of one peppercorn, if the same be lawfully demanded, in lieu and stead of all other rents, dues, duties, and demands whatsoever for the premises. And lastly, we do for us, our heirs and successors, ordain and grant unto the said rector, inhabitants, &c., and their successors, by these presents, that these our grants shall be firm, good, effectual, and available in all things in the law, to all intents, constructions, and purposes whatsoever, according to our true intent and meaning herein before declared, and shall be construed, reputed, and adjudged in all cases most favourable, and on the behalf, and for the best benefit and behoof of the said rector and inhabitants, &c. and their successors, although express mention of the true and yearly value in certainty of the premises, or any of them, in these presents, are not named; or any statute, act, ordinance, provision, proclamation, or restriction heretofore had, made, enacted, ordained, provided, proclaimed, and restrained, or any other matter, clause, or thing whatsoever to the contrary hereof in any ways notwithstanding. And we further declare it to be our royal will and pleasure, that nothing herein contained, nor any clause or article herein above mentioned, shall be construed or taken to abridge or take away any right, privilege, benefit, liberty, or license that we have heretofore granted unto any church in communion of our Protestant faith within our said province of New-York, anything contained herein to the contrary hereof in any ways notwithstanding. *In testimony whereof*, we have caused the great seal of our said province to be hereunto affixed. Witness our trusty and well-beloved Benjamin Fletcher, our captain-general, and governor in chief of our province of New-

York, and the territories and tracts of land de-
660 pending thereon in America, and vice-admiral of the same, our lieutenant and commander in chief of the militia, and of all the forces by sea and land wit'in our colony of Connecticut, and of all the forts and places of strength within the same, in
665 Counc l, at our fort in New-York, the sixth day of May, in the ninth year of our reign, annoq. Dmi., 1697.

BEN. FFLETCHER.

By his Excellency's command,

DAVID JAMISON, Sec'ry.

AN ACT.

For making such Alterations in the Charter of the Corporation of Trinity Church, as to render it more conformable to the Constitution of the State.

Passed 17th April, 1784.

Preamble. WHEREAS by letters patent under the great seal of the then colony, and now State of New-York, bearing date the sixth day of May, in the year of our Lord one thousand six hundred and ninety-seven, many of the inhabitants of the city of New-York, members of the Church of England, were erected into a corporation, by the name and style of the Rector and Inhabitants of the City of New-York, of the Protestant Church of England, as by Law established.

Style of the old charter, dated May 6, 1697.

Preamble. *And whereas*, on the twenty-seventh day of June, in the year of our Lord one thousand seven hundred and four, the Legislature of the then colony, and now state aforesaid, did pass a law, entitled, "An Act for "granting sundry Privileges and Powers to the "Rector and inhabitants of the City of New-"York, in Communion of the Church of England, as by law "established."

Privileges granted June 27, 1704.

And whereas those parts of the said charter which render necessary the induction of a rector to the said church by the governor, according to such instructions as he shall from time to time receive from his Britannic majesty, and such other parts of the said charter and law as admit and acknowledge that rights exist in the bishop of London, in and over the said church, are inconsistent with the spirit and letter of the constitution of this state,

Preamble.

Reciting parts of the charter inconsistent with the constitution.

And whereas certain other parts of the said charter and law, and of a certain other law passed the twenty-second day of September, in the year of our Lord one thousand six hundred and ninety-three, by the Legislature of the then colony aforesaid, entitled, "An Act for settling a Ministry, and raising a Maintainance for them in the City of New "York, and County of Richmond, Westchester, "and Queen's County," are contradictory to that equality of religious rights which is designed to be established by the constitution of this state:

Preamble.

Reciting other parts of the charter and laws against the religious equality designed by the constitution.

I. *Be it therefore enacted by the people of the state of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same*, that so much of the charter to the said body corporate above particularly mentioned, and so much of the said law first above particularly mentioned, as relate to the induction of the rector by the governor, to the powers or authority of the bishop of London, in and over the said corporation, and to the collecting and levying a sum of money upon the city of New-York, for the use of the rector or incumbent in the said law mentioned, be, and they are hereby repealed and annulled; and that nothing in this law, nor no nonuser or misuser, between the nineteenth day of April, one thousand seven hundred and seventy-five, and the passing of this law, shall be in any wise construed to annul, injure, repeal, or make void the said charter, or the said law first above particularly mentioned, where the same are not inconsistent with the constitution of this state.

Part of the old charter, and law relating to the church repealed

Charter rights preserved, notwithstanding non-user or misuser.

II. *And be it further enacted, and it is hereby enacted by the authority aforesaid*, that the church-wardens and vestrymen of the said corporation, or a majority of them, be vested with full powers to call

Churchwardens and vestrymen to call and induct a rector.

and induct a rector to the said church, so often as there shall be any vacancy therein.

Preamble. *And whereas* doubts have arisen on those parts of the said charter and law first above mentioned, which speak of inhabitants in communion of the said church of England; for removal whereof;

Description of persons who shall be entitled to all the charter rights. III. *Be it further enacted by the authority aforesaid*, that all persons professing themselves members of the Episcopal Church, who shall either hold, occupy, or enjoy a pew or seat in the said church, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the holy sacrament of the Lord's Supper, at least once in every year, being inhabitants of the city and county of New-York, shall be entitled to all the rights, privileges, benefits, and emoluments, which in and by the said charter and law first above mentioned, are designed to be secured to the inhabitants of the city of New-York in communion of the Church of England.

Preamble. *And whereas* by the events of war, and in consequence of the capture of the city of New-York by the troops of his Britannic majesty, many of the well-affected inhabitants of the said city, who by the said charter and law were entitled to vote for members of the said corporation, were prevented from the due exercise of their rights, and many others who remained in this city, were deterred from voting by well-grounded apprehensions of the forces of his Britannic majesty then in possession of the said city; by reason whereof no elections were held, but under the influence of the government of Great-Britain, then actually at open war with this state;

Describing who could not for members of the corporation

Preamble. *And whereas* the council appointed by the act of the Legislature, entitled, "An Act to provide "for the temporary government of the southern parts of this "state, whenever the enemy shall abandon or "shall be dispossessed of the same, and until the "Legislature can be convened," passed the twenty-third of October, one thousand seven hundred and seventy-nine, upon the petition of sundry persons, styling themselves members of the said church; and after a full hearing of sundry other persons, claiming to be the church-wardens and vestrymen of the said church, re-

Reciting determination of the last council respecting their offices.

citing that there was, in the opinion of the council, reason to believe that the dissentions respecting the said church might materially endanger the peace of the said city, did, in effect, determine the said places of church-wardens and vestrymen to be vacant; and by their ordinance, dated the twelfth day of January, one thousand seven hundred and eighty-four, did vest the estate, real and personal, of the said corporation, in James Duane, Francis Lewis, Lewis Morris, Isaac Sears, William Duer, Daniel Dunscomb, Anthony Lispenard, John Rutherford, and William Bedlow, to be retained and kept by them, or any five of them, until such time as further legal provisions should be made in the premises;

And estate of the corporation vested in 9 persons.

And whereas it appears, that the following persons have been nominated and chosen, by a very respectable number of the members of the said corporation and society, as church-wardens and vestrymen, and by their humble petition have prayed that the said persons may be appointed as such.

Preamble.

IV. *Be it therefore further enacted, and it is hereby enacted by the authority aforesaid*, that James Duane and Robert R. Livingston be the present church-wardens of the said corporation; and that Anthony Griffiths, Hercules Mulligan, Marinus Willet, John Stevens, Robert Troup, Thomas Tucker, Joshua Sands, Richard Morris, Francis Lewis, Lewis Morris, Isaac Sears, Daniel Dunscomb, William Bedlow, William Duer, John Rutherford, Anthony Lispenard, Thomas Grennell, William Mercier, Thomas Tillotson, and Christopher Miller, be the vestrymen of the said corporation; the said church-wardens and vestrymen to hold their places until the first usual day of election for church-wardens and vestrymen, which shall be held after Easter Sunday, which will be in the year of our Lord one thousand seven hundred and eighty-five; and that in the mean time in case of any vacancy by death or resignation of the rector, or either of the church-wardens or vestrymen, such vacancy to be filled up by the remaining church-wardens and vestrymen, in such manner as is prescribed in and by the charter and law constituting the said corporation as aforesaid.

Present church-wardens and vestrymen appointed.

Their continuance in office.

Vacancies how to be filled up.

V. *Provided nevertheless, and be it further enacted, by the au-*

Proviso.

thority aforesaid, that nothing in this act contained, shall be construed, deemed, or taken to prejudice or injure the right or title of any person or persons whatsoever, to any of the lands or tenements occupied or claimed by the corporation aforesaid.

Saving the right or title of claimants.

And in order fully to carry into full effect those parts of the constitution of this state which declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall for ever hereafter be allowed within this state to all mankind, and that all acts of the Legislature of this state while a colony, and all parts thereof which may be construed to establish or maintain any particular denomination of Christians, or their ministers, be abrogated and rejected as repugnant to the said constitution.

Preamble,

And in order to remove all doubts which may arise in the minds of any persons with respect to the continuance, force, and effect of a certain act of the Legislature of this state while a colony, passed on the twenty-second day of September, one thousand six hundred and ninety-three, entitled, "An Act for set-"tling a Ministry, and raising a Maintenance for them in the "City of New-York, County of Richmond, Westchester, and "the Queen's County;" and also of one other act, passed on the twenty-seventh day of June, one thousand seven hundred and four, entitled, "An Act for granting sundry Pri-"vileges and Powers to the Rector and inhabitants of the "City of New-York, of the Communion of the Church of "England, as by Law established;" and also of another act, passed on the fourth day of August, one thousand seven hundred and five, entitled, "An Act for the bet-"ter explaining and more effectually putting in "Execution an Act of General Assembly, en-"titled, An Act for settling a Ministry, and rais-"ing a Maintenance for them in the City of New-York, "County of Richmond, Westchester, and Queen's County;" and also of one other act, passed on the twenty-seventh day of July, one thousand seven hundred and twenty-one, entitled, "An Act for the more equal and impartial asses-"sing the Minister and Poor's Tax, to be raised within the "City and County of New-York, Queen's County, West-"chester County, and the County of Richmond;" and also

Reciting certain acts.

Implying a pre-eminence of the Church of England above others.

of one other act, passed the twenty-first day of September, one thousand seven hundred and forty-four, entitled, "An "Act to alter the Time of electing Vestrymen and Church-"wardens in Richmond County;" and also certain parts of one other act, passed the twenty-ninth day of November, one thousand seven hundred and forty-five, entitled, "An "Act to enable the Inhabitants of the City of New-York, to "choose annually two Vestrymen for each respective Ward "within the said City," which do grant certain Immunities, Emoluments, and Privileges to the Episcopal Church, or that mode of Religious Worship, commonly called the Church of England, in the City and County of New-York, and the Counties of Richmond, Queen's and Westchester, and do establish and maintain the Ministers of that Denomination within the said Counties; and do also declare or imply a pre-eminence or distinction of the said Episcopal Church, or Church of England, over all other churches and other religious denominations.

VI. *Be it therefore further enacted by the authority aforesaid*, that the said acts for settling the ministry, and raising a maintenance for them in the city of New-York, counties of Richmond, Westchester, and Queen's county, for granting sundry privileges and powers to the rector and inhabitants of the city of New York, of the communion of the Church of England, as by law established, for the better explaining and more effectually putting in execution an act of the General Assembly, entitled, "An Act for "settling the Ministry and raising a Maintenance for them "in the City of New-York, County of Richmond, Westches-"ter, and Queen's County, for the more equal and impartial "assessing the Minister and Poor's Tax, to be raised in the "City and County of New-York, Queen's County, West-"chester County, and the County of Richmond," for "alter-"ing the Time of electing Vestrymen and Church-wardens "in Richmond County;" and also such certain parts of the act for "enabling the inhabitants of the city of New-York to choose annually two vestrymen for each respective ward within the said city," as do imply such pre-eminence and distinction, be, and are hereby declared to be fully and absolutely abrogated, abolished, annulled, repealed, and made void, as inconsistent with, and repugnant to the constitution of this state: And it is hereby further declared, that nothing in this act contained shall in any wise be con- Such acts repealed.

strued or understood to give any kind of pre-eminence or distinction to the Episcopal mode of religious worship within this state; but that an universal equality between every religious denomination, according to the true spirit of the constitution, towards each other, shall for ever prevail.

Equality between religious denominations.

VII. *And be it further enacted by the authority aforesaid*, that nothing in this act contained, shall be deemed, esteemed, adjudged, or construed, to enlarge or confirm any right, power, or authority, but such as the said corporation legally had, held, and enjoyed on the nineteenth day of April, one thousand seven hundred and seventy-five, and such other powers, rights and authorities as are expressly given by this act.

AN ACT

To enable the Corporation of Trinity Church, in the City of New-York, to assume the Name therein mentioned.

Passed 10th March, 1788.

Preamble.

WHEREAS the corporation of Trinity Church, in the city of New-York, were, by an act of the Legislature of the late colony of New-York, passed the twenty-seventh day of June, in the year one thousand seven hundred and four, enabled to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, by the name of the Rector and Inhabitants of the City of New-York, in Communion of the Church of England, as by Law established. And whereas the said act was repealed by the Legislature of this State, on the seventeenth day of April, in the year one thousand seven hundred and eighty-four; but the said corporation have continued to use the name therein specified, and by their humble petition to the Legislature of this State, have prayed that they may be enabled to assume and use the name of "The Rector and "Inhabitants of the City of New-York, in Communion of "the Protestant Episcopal Church in the State of New-York." Therefore

Be it enacted by the people of the State of New-York, represented in the Senate and Assembly, and it is hereby enacted by

Corporation of Trinity Church to take and use a new name and to sue and be sued thereby.

the authority of the same, that the said corporation shall and may, from and immediately after the passing of this act, take and use the name of the Rector and Inhabitants of the City of New-York, in Communion of the Protestant Episcopal Church in the State of New-York; and by the same name shall be capable to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended; and

And all grants made to, or by them, under their former name, between certain times to be valid.

that all grants, deeds, and conveyances made to or by the said corporation, between the said seventeenth day of April, in the year one thousand seven hundred and eighty-four, and the passing of this act, wherein they are named or mentioned by the name of the Rector and Inhabitants of the City of New-York, in Communion of the Church of England, as by law established, or any other name or names, shall be good, valid and effectual in law, in like manner as they would have been if the said act, passed the twenty-seventh day of June, in the year one thousand seven hundred and four, had never been repealed, or as they would respectively have been if the said corporation had been properly named in such grants, deeds, or conveyances.

AN ACT

To alter the name of the Corporation of Trinity Church, in New-York, and for other Purposes.

Passed January 25th, 1814.

Recital.

WHEREAS, at the time of passing the act, entitled, "An "Act for making such alterations in the Charter of "the Corporation of Trinity Church, as to render it more con-"formable to the Constitution of the State," and for some years afterwards, the said corporation, although possessing several places of public worship besides Trinity Church, was the only incorporated religious society in the city of New-York in communion of the Protestant Episcopal Church in this State; but several other religious societies, of the same denomination, have since been formed in the said city, and duly incorporated. And whereas, by an act passed the tenth day of March, in the year of our Lord 1788, the said corporation of Trinity Church was enabled to take and use the name of "The Rector and Inhabitants of the City of

" New-York in Communion of the Protestant Episcopal " Church in the State of New-York ;" which name the said corporation, by their petition to the Legislature, pray may be altered, as having now become improper; and that such further legislative provisions may be made as to remove all doubts respecting their charter rights, occasioned by the formation of other religious societies in the said city of New-York. Therefore

I. *Be it enacted by the People of the State of New-York, represented in Senate and Assembly*, That from and after the passing of this act, the said corporation of Trinity Church, instead of their present name, shall take and use the name of " The Rector, Church-Wardens, and " Vestrymen of Trinity Church, in the City of New-York."

Corporate name.

II. *And be it further enacted*, That all male persons of full age, who, for the space of one year preceding any election, shall have been members of the congregation of Trinity Church aforesaid, or any of the chapels belonging to the same, and forming part of the same religious corporation, and who shall hold, occupy, or enjoy a pew or seat in Trinity Church, or in any of the said chapels, or have partaken of the holy communion therein within the said year, and no other persons, shall be entitled to vote at the annual elections for the church-wardens and vestrymen of the said corporation.

Persons qualified to vote.

III. *And be it further enacted*, That all grants and conveyances heretofore made, or that hereafter may be made by the said corporation of Trinity Church of any of their lands, tenements, and hereditaments, to any other religious society, now incorporated, or that may hereafter be duly incorporated, shall be and the same are hereby declared to be valid and effectual, according to the tenor thereof; provided the annual value of such lands, tenements, and hereditaments, at the time of such grant or conveyance, together with the other estate real and personal of such other religious corporations, shall not exceed the annual sum which they are or may be respectively entitled to hold.

Corporation may grant lands to other corporations.

Proviso.

IV. *And whereas* Saint George's Church, in the city of New-York, formerly called Saint George's Chapel, was one of the Chapels heretofore belonging to the corporation of Trinity Church, and the pew-holders in the said h apel, and others qualified according to the charter of Trini-

Recital.

ty Church and the laws of the State, were corporators of the said corporation of Trinity Church. And whereas, by mutual agreement and consent, the said chapel, called Saint George's Chapel, with such of the corporators of the corporation of Trinity Church as belonged thereto, or statedly worshipped in the said chapel, have been set off, and organized as a distinct religious society, and have incorporated themselves as such, under the name of the Rector, Church-Wardens, and Vestrymen of St. George's Church in the city of New-York: and the corporation of Trinity Church have granted to, or vested in the said newly incorporated religious society, the exclusive right to the said chapel, with the appurtenances, and which are now enjoyed accordingly: but doubts are entertained as to the legal validity of the said transaction.

Therefore *be it further enacted*, That the separation of Saint George's Chapel, in the city of New-York, from the corporation of Trinity Church, shall be, and hereby is confirmed: and that the said church, now called Saint George's Church, shall not at any time hereafter be held or taken to be a church or chapel belonging to Trinity Church, so as to qualify any of the congregation thereof to vote at the elections of church-wardens and vestrymen of Trinity Church above mentioned. And the said religious society called the rector, church-wardens, and vestrymen of Saint George's Church, in the city of New-York, shall have a right to all the temporalities derived from the corporation of Trinity Church as aforesaid, and may enjoy the same in as full and beneficial a manner as any such religious corporation can hold and enjoy its temporalities, howsoever the same may be acquired.

Saint George's Church declared a separate Church from Trinity Ch.

and to possess its separate estate.

V. *And be it further enacted*, That when, and as often as it shall seem expedient to the said rector, church-wardens, and vestrymen of Trinity Church, in the city of New-York, to divide the congregation or corporators belonging to the said corporation, it shall be lawful for them so to do, by setting apart, as a separate Church, any of the churches or chapels that may belong to and form part of the said corporation, provided the same be done with the assent of a majority of the persons entitled to vote as aforesaid, who shall belong to such church or chapel intended to be set a-

Corporation may set apart other churches, &c.

Proviso.

part, and who shall attend a meeting to consider of such separation after at least ten days notice previously given for that purpose in the said church or chapel, during or immediately after divine service: and such separation so assented to shall take effect according to the terms agreed upon between the parties; and the members of the congregation of such church or chapel so separated, shall immediately thereafter cease to be members of the corporation of Trinity Church above mentioned, and may proceed to incorporate themselves according to law as a separate congregation of the said Protestant Episcopal Church; and being so incorporated, may receive from the said corporation of the Trinity Church, any grant, conveyance, or gift of any chapel or other real or personal estate for its separate use, and may hold and enjoy the same accordingly, as fully and beneficially as any such religious corporation can hold and enjoy its temporalities, howsoever the same may be acquired.

No religious society bound to file an inventory unless they acquire additional property.

VI. *And be it further enacted*, That in every case where a church or religious society which has been, or may be duly incorporated, shall have exhibited such account and inventory as is specified in the ninth* section of the act entitled, "An Act to provide for the Incorporation of religious Societies," it shall not be necessary for such church or society again to exhibit any account and inventory, unless the said church or society, subsequently to such exhibition, shall have purchased or acquired any lands, tenements, or hereditaments within this state, any act, law or usage to the contrary notwithstanding: Provided always, that nothing in this act contained shall be construed to affect, or defeat the right of any person or persons, or of any body corporate, to the estate, real or personal, now held, occupied, or enjoyed by the corporation of Trinity Church.

[Note.—The Petition of the Corporation of Trinity Church for the Act of 1814 was appended to Judge Troup's remarks, preceding the following Memorial; but inasmuch as it is inserted "in hæc verba" in the recent Remonstrance of that Corporation which is also printed, it has not been considered necessary to swell out this pamphlet by its repetition here.]

*[The *tenth* section of the law as revised and re-enacted in 1813, vide a previous note.

MEMORIAL

OF THOMAS FARMAR AND OTHERS.

To the Honorable the Legislature of the State of New-York:

The Memorial of the Subscribers, Members of the Protestant Episcopal Church, and Inhabitants of the City of New-York,

Respectfully showeth,

That in the year 1697 a charter was granted by the Governor of the then province of New-York, whereby all persons in communion of the Protestant Episcopal Church, who were then inhabitants, or who might thereafter inhabit the city of New-York, were incorporated by the name of the Rector and Inhabitants of the City of New-York, in Communion of the Church of England, as by law established.

That in the year 1788 an act was passed, authorizing the said corporation to assume the name of the Rector and Inhabitants of the City of New-York, in communion of the Protestant Episcopal Church in the State of New-York.

That under colour of this act, or under some other pretence, the congregation of Trinity Church, the members of which are but a very small proportion of the Episcopal inhabitants of the said city, have usurped all the privileges, and taken into their possession all the property of the corporation; thereby disfranchising, in respect to the said charter, a great majority of the Episcopal inhabitants of the city.

That your memorialists have learned, with great alarm, that the Vestry of Trinity Church, which is a body elected by the members of that congregation solely, have appointed a deputation to proceed to Albany, and to use their influence to obtain from the Legislature an act to confirm their unjust usurpations.

Your memorialists herewith submit to your Honorable Body a copy of the charter above referred to, and of the laws of the State which have been passed in reference to the same.

And they humbly pray that no law may be passed which will sanction the unjust proceedings of Trinity Church, or that may affect the rights of the Episcopal inhabitants of the city, who are not members of the Congregation of Trinity Church, but who have equal claims with them to the privileges and benefits of the charter.

Signed by order and in the behalf of the committee appointed by the general meeting of Episcopalians at Mechanic Hall, and in virtue of the third and fourth resolutions adopted at said meeting, a copy of which is herewith presented.

THOS. FARMAR, Chairman.

BENJ. FERRIS, Sec'y, P. T.

New-York, March 3d, 1813.

I certify the preceding to be a true copy of a memorial on file in the Senate of this State.

S. VISSCHER, Clerk.

RESOLUTION OF THE ASSEMBLY.

State of New-York:

In Assembly, March 25th, 1813.

Resolved, that the Attorney General be, and he hereby is requested to report to this House, whether in his opinion the passage of the bill entitled, "An Act to alter the Name "of the Corporation of Trinity Church in New-York, and "for other Purposes," would in any wise defeat or vary any existing vested rights under the charter granted May 6th, 1697, to "the Rector and Inhabitants, in communion "of the Protestant Church of England, as now established "by our laws," or under any acts altering the said charter.

By order, JAS. VAN INGEN, Clerk.

REPORT OF THE ATTORNEY-GENERAL.

In Assembly, March 26th, 1813.

State of New-York.

The Attorney-General, in obedience to the resolution of the Hon. the Assembly of the 25th day of March instant,

Reported,

That he has examined a printed copy of the charter, granted in the year 1697, to the rector and inhabitants of the city of New-York, in communion of the Protestant Church of England, as then established by law, and the acts altering the said charter, together with the bill referred to in the said resolution, entitled, "An Act to alter the name "of the Corporation of Trinity Church in the City of New-"York, and for other Purposes," and that he is of opinion,

that the passage of the said bill will not defeat or vary any existing vested rights under the said charter and acts.

All which is respectfully submitted.

ABRAHAM VAN VECHTEN,
Attorney-General.

I certify the preceding to be a true copy of the original report of the Attorney-General, made to the House of Assembly, April 9th, 1813.

JAS. VAN INGEN,
Clerk of the House of Assembly.

OBJECTION

Of the Council of Revision to the Bill entitled, "An Act granting Relief in certain Cases to the Inhabitants of the City of New-York, and to the Inhabitants of the Town of Brooklyn, in King's County."

In Council of Revision, January 30, 1810.

The Council object to the bill entitled, "An Act granting "Relief in certain Cases to the Inhabitants of the City of "New-York, and to the Inhabitants of the Town of Brook-"lyn, in King's County," as improper to become a law of this State:

Because, if the conveyance across the East River, of the goods, wares, and merchandizes, described in the bill, is not interfered with by private rights, its provisions are useless: and if any such rights are claimed or exist, they are appropriately and exclusively of judicial cognizance.

ELISHA JENKINS, Secretary.

No. 117.

IN SENATE,

April 9, 1846.

REPORT

Of Mr. Clark, from the committee on charitable and religious societies, on memorial of inhabitants of the city of New-York, in relation to Trinity Church.

Mr. Clark, from the committee on charitable and religious societies, to which were referred the memorial of certain inhabitants of the city of New-York, in communion of the protestant episcopal church in the city of New-York, praying for the repeal or modification of an act passed January 25th, 1814, entitled "An act to alter the name of the corporation of Trinity church in New-York, and for other purposes;" and also the remonstrance of the rector, church-wardens, and vestry men of Trinity church in the city of New-York, against granting the prayer of said memorial, together with divers other petitions and remonstrances on the same subject,

REPORTS:

That your committee have examined the questions arising out of the controversy between the memorialists and the corporation of Trinity church as now constituted, with all the care and attention that their importance and difficulty demand. That they have been attended by the counsel of the respective parties, and have deliberately weighed

the evidence, arguments and authorities that have been adduced and urged before them; and upon mature consideration your committee have arrived at the conclusion, that the act which is the subject of complaint ought never to have been passed; and they consequently feel it their duty to recommend an entire repeal of all its provisions. The reasons that have led the minds of your committee to this conclusion, it will be their object in this report to set forth and explain with as much brevity as the nature of the subject will admit, but as distinctly and fully as the magnitude of the interests involved plainly requires.

The attention of the Senate will be asked in the first instance to a statement of the leading facts of the case as they appeared before your committee. This summary, it will hereafter be seen, is necessary to a just understanding of the observations that are to follow.

The original charter on which the claims of the present corporation of Trinity church are founded, was granted in the name of the King, by the then Governor of the Province of New-York, in council, and under the great seal of the Province, in the year 1697. A full copy of this charter is appended to the printed copies of the memorial that has been referred to your committee; but your committee while they recommend to every member of this honorable body the entire perusal of this remarkable document, will for the present content themselves with referring only to such of its provisions as are directly and plainly connected with the question that it has been their duty to consider.

This charter declares that a certain church then recently built and erected on Broadway, in the city of New-York *shall be* the parish church of the parish of Trinity church, within the city of New-York, (see Memorial, page 19;) and in a subsequent clause, that it shall be the sole and only parish church of the said city, (page 25;) thus, by a necessary consequence, making the bounds of the parish identical with those of the county.

The then bishop of London is constituted the first rector of this parish, and he and his successors, rectors of the said parish, together "with all the inhabitants from time to time inhabiting, and to inhabit in our said city of New-York, in communion of our aforesaid church

of England, as now established by our laws are created a body politic and corporate in fact and in name by the name of the rector and inhabitants of our said city of New-York, in communion of our protestant church of England, as now established by our laws." (Mem. p. 19, 20.) It is impossible to deny, that by these terms of incorporation ; all the present and future inhabitants of the city, in communion with the church of England, are rendered members of the corporation, and they therefore afford decisive proof, that the bounds of the city and of the parish were identical, and consequently that the phrases, inhabitants of the city, and inhabitants of the parish as used in the charter were equivalent in meaning. The provisions in this charter relative to the election of wardens and vestry-men is in the following words : " And further we will and ordain, and by these presents do declare and appoint, that for the better ordering and managing of the affairs and business of the said corporation, there shall be annually, and once in every year forever, on the Tuesday in easter week, two church wardens and twenty-vestry men, duly elected by the majority of votes of the inhabitants of the said parish in communion as aforesaid."

Among other singular provisions, the charter of 1697 conferred on the rector and wardens, whom it appointed or directed to be chosen, the extraordinary power of levying such sums of money as might be estimated to be necessary to finish Trinity church and its steeple, to build a convenient house for its rector, and to satisfy the existing debts of the church, by charging the same, not upon the members of the corporation exclusively, but upon " all and every of the inhabitants in the said parish," without any exception of those who were not in communion of the church of England. (Mem. p. 22, 3.) In other words, an ecclesiastical corporation was empowered to levy by its own action, and for its own exclusive benefit, a general tax of an undefined amount on all the inhabitants of the city and county of New-York. Whether, either from the nature of its provisions, or the defect of authority in a Provincial Governor to exercise a royal prerogative, not expressly delegated to him by the terms of his commission, the charter of 1697 was void in its creation, is a question that it may perhaps become necessary for a court of justice hereafter to determine, and hence it would be improper for your committee to express an opinion in relation to it—nor indeed, in order to judge of

the merits of the controversy and to warrant the conclusions of this report is it at all necessary that any opinion as to the original validity of the charter should be expressed or formed. Whether it was valid or not in its creation, it is quite certain that within a few years after it was granted, it was superseded and abrogated by the controlling action of a paramount authority.

In the year 1704, the general assembly of the Province of New-York, passed an act, to which the assent of the crown, through the Governor and Council was given, entitled, "An act for granting sundry privileges and powers to the Rector and inhabitants of the city of New-York, of communion of the church of England as by law established." This act, for many reasons, deserves our *special* attention; not only in its title, but in its form, and by its terms it is an original grant of corporate powers; neither in the title, in the preamble, nor in any of the enactments is there any allusion to the provisions, or even to the existence of a prior charter. The conclusion from this silence seems inevitable. If the charter of 1697 were in fact the charter, under which Trinity Church was organized, and was then acting, the general assembly of 1704, could not have been ignorant of its existence, and had it been their intention to recognize its validity and merely to re-enact or alter some of its provisions, that intention would have been expressly declared. They would not have treated the charter as a nullity unless it was in fact so regarded.

It is also apparent, that the act of 1704, was meant to embrace the whole subject to which it relates. It was a grant of all the privileges and powers that it was meant that the corporation which it created should exercise and possess. It however omits many important provisions in the charter of 1697, and it is difficult to believe that these provisions, some of which were in themselves highly objectionable, were meant to be left in force. Hence had they been considered as having by virtue of the charter, the force of law, they would have been distinctly repealed. Your committee are not aware that the validity of the act of 1704, has ever been disputed or denied, nor are they able to perceive that there are any grounds on which its validity could reasonably be drawn in question.

If the Governor in Council had alone the power to grant a charter, the authority of the General Assembly with the assent of the

Governor and Council to revoke or alter its provisions, cannot be doubted. If then the act of 1704, is admitted to have been a valid exercise of legislative power, whether it operated as an entire repeal of the charter of 1697, it is immaterial to determine, since as a subsequent law, it undoubtedly abrogated those provisions of the prior charter, with which its own were inconsistent.

By adverting to the provisions of the act, the bearing and importance of the observations we have made, will at once appear. It creates a corporation by the name of "the Rector and inhabitants of the city of New-York in communion of the Church of England as by law established," and declares that the corporation was intended to include all the persons that its name describes. (Mem. p. 28. § 1.)

It confirms to the said Rector and inhabitants and their successors all the grants previously made to them, to be held and enjoyed by them in as firm and ample manner in the law as if the said Rector and inhabitants had been legally incorporated. (P. 29.)

It authorizes all the inhabitants of the city in communion of the church, to meet annually, for the election of the prescribed number of wardens and vestrymen. It requires that the wardens and vestrymen to be elected, shall be communicants of the church, and it exacts a similar qualification in those who are admitted to vote. (§ 5, p. 30.)

Restrictions not contained in the prior charter, and peculiar to this act:—finally, far from creating or recognizing a parish of Trinity Church and limiting the right of voting to the parishioners, it contains no mention of a parish in any of its provisions, neither the word "Parish" nor any other to which, by any construction, a similar meaning may be attributed, is to be found in the law.

In closing their observations as to the character and import of the act of 1704, observations of which the decisive relevancy will hereafter be seen, your committee do not hesitate to express their entire conviction, that from the time of the passage of this act, until the year 1784, it was considered by all the parties interested, and particularly by the government of the province, and the corporation itself, as emphatically the *law* by which the corporate rights and privileges of Trinity Church were created and defined, and that during all this

period, it was by the provisions of this law, that the right of voting at the annual elections of the wardens and vestrymen of the church was wholly governed. Of this assertion the proofs are obvious and conclusive.

In the year 1705 a grant was made to Trinity church by the Governor of the Province in council, but in the name of Queen Anne, of that well known tract of land, within the bounds of the city of New-York, which constitutes to this day the bulk of the immense estate that the church possesses. This grant is not only made "to the rector and inhabitants of the city of New-York in communion of the church of England, as by law established, and their successors forever," the exact corporate name that the act of 1704, imposed, but the preamble directly refers to this act, as the sole origin of their corporate power; in other words, as *the* charter from which the legal capacity of the rector, and inhabitants to accept the grant, was above derived. (Queen Anne's Grant, Mem. p. 33.)

2d. It was admitted by the counsel for the remonstrants on the hearing before your committee, that until the year 1784, the right of voting for the wardens and vestry men of Trinity church was limited in its actual exercise to the communicants of the church; and a well known pamphlet recently published, and written and published by the late Robert Troup, esq., with a view to influence the action of the council of revision on the bill, (the act of 1814,) then pending before them, not only positively affirms the same fact, but states that one of the objects of application to the Legislature in 1784, was to extend the right of voting to other persons than the communicants of the church. (Remarks on Trinity Church Bill, p. 7. 8.)

This limitation on the right of voting it has already been stated, is only to be found in the act of 1704.

The charter of 1697 confers the right on all the inhabitants of the parish in communion of the church of England, and according to the well known doctrines of that church its communion embraces all its members; in other words, all belong to the communion of the church who have been baptized or confirmed therein, and have not explicitly renounced its doctrines.

3d. The name given to the corporation of Trinity church, (an ap-

pellation which although conscious of its impropriety for the sake of brevity we adopt,) by the act of 1704, differs from its corporate name in the charter of 1697.

The variance on comparison may appear to be slight and purely verbal, but no change in the name of a corporation is immaterial. It is by its name that a corporation exists, or to speak more properly, it is only by the use of its appropriate name that it can manifest its existence. It is an indisputable fact, that from the year 1704, to the year 1788, Trinity church in all its corporate acts used exclusively the corporate name that the act of 1704 imposed. The records of the church demonstrate the fact, and the preamble to an act of the Legislature, passed in 1788, to which we shall hereafter refer, contains a distinct admission of its existence. Having stated the original sources from which the corporate rights and powers of Trinity church were derived, we have next to consider how that memorable revolution by which the colony of New-York was raised to the dignity of an independent State, and the sovereignty that before had been vested in a monarch was transferred to *the people*, effected the existence or exercise of these corporate rights and powers. In reply to this inquiry, your committee have no doubt or hesitation in stating that the necessary effect of the treaty of peace of 1783, taken in connection with the provisions of the State constitution previously adopted, was to render the exercise, by Trinity church and its corporation, of their corporate rights and privileges, according to the intentions of those by whom they were granted, no longer practicable.

Its charter whether we give the name to the grant of 1697, or to the act of 1704, or to both in conjunction, may still have existed, but it existed only as an abstraction.

All the powers and privileges that it conferred were suspended and dormant, and in that state but for the interposition of the Legislature must forever have remained. It is not to be doubted that it was an essential condition of the original charters, that the rector and inhabitants whom they incorporated should remain in the communion of the church of England *as established and governed by the laws of England.*

Their voluntary departure previous to the revolution from that

communion would have operated as an absolute forfeiture of their corporate powers.

But from the time that the city of New-York was rescued from foreign domination, the connexion between Trinity church and its members and the church of England, and their dependence upon that church and upon the laws of England, were wholly dissolved—nor without a violation of the principles of our Constitution, could the communion thus interrupted and broken ever be restored.

The emancipated city contained no rector and inhabitants in communion of the church of England, as by law established. Hence, there were no longer any persons in being by whom the corporate powers of Trinity church, according to the terms of its corporation could be exercised.

The charter still existed as an historical document, but was no longer a living reality. The ancient words remained, but they had lost their significance and power. On paper there was still a corporation—in fact, not a single corporator. Hence, if the charter was to be revived at all ; if Trinity church was to be enabled as a corporation to retain the possession and government of the valuable property it had previously acquired, an act of the Legislature *designating* the persons who should be entitled to act as corporators, and defining the mode of their action was indispensable to be passed ; and if the act of the Legislature was thus necessary to reanimate a lifeless corporation, the same Legislature had an undoubted right to prescribe the conditions on which the existence that it restored should in future be held. These remarks are introductory to the law to which the attention of the Senate will next be directed, the act passed by the Legislature on the 17th April, 1784, entitled " an act for making such alterations in the charter of the corporation of Trinity church as to render it more conformable to the Constitution of the State," (Act of 1784, Mem. p. 37,) a title that expresses very accurately the principal object of the law.

It is unnecessary to advert specially to those provisions of this act that were designed to produce the desired conformity between the charter of the church and the Constitution of the State, except to remark, that those parts of the charter that are directly repealed are

only to be found in the act of 1704, not in the grant of 1697. Thus incidentally affording another decisive proof that the act of the Assembly and *not* the *grant*, had been followed and obeyed, as the fundamental law, from which the powers of the corporation were derived and by which their exercise was governed. (Compare preamble § 1, of the Act. Mem. p. 38, with § 3, of the Act of 1704, p. 29, 30.)

It is the third section of the act of 1784 that defines the qualifications of the persons who were to be instituted as members of the corporation, and consequently entitled to vote as in the election of wardens and vestry men, in place of those that the original charter describe. That section is in the words following: "Be it further enacted by the authority aforesaid, that all persons professing themselves members of the episcopal church who shall hold, occupy or enjoy a pew or seat in the said church, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the holy sacrament of the Lord's supper, at least once in every year, being inhabitants of the city and county of New-York, shall be entitled to all the rights, privileges, benefits, and emoluments, which in and by the said charter and law first above mentioned, are designed to be secured to the inhabitants of the city of New-York, in communion of the church of England."

It is not to be denied that these provisions vary materially from those of the former charter of the church, since they extend the right of voting to a class of persons, namely pew holders, not being communicants, that by the terms of the act 1704, and by the uniform practice under that law, had been wholly excluded, and upon this ground it has been asserted that *this* legislative proceeding in 1784 is liable precisely to the same objections that have been urged against that in 1814, and that in both cases the objections are subject to the same reply.

If the act of 1814, it has been said, altered the vested rights of those who as corporators were entitled to vote under the act of 1784, the act of 1784 made a similar alteration in the rights of the corporators, under the original charter; and if for this reason the second law is to be deemed unconstitutional and void, the first ought to be held invalid, on the same ground, and if the provisions of the act of 1784,

although invalid in their origin, have been rendered obligatory by the lapse of time, and the acquiescence, and implied consent of those whose rights they impaired—those of the act of 1814, however unconstitutional and unjust, when passed, have been placed by the same causes beyond the reach of legislative power and judicial action, and finally that if the act of 1814 ought to be repealed, the repeal should in justice be extended to that of 1784, thus restoring the original charter and the rights of those entitled under it, to all their pristine integrity.

But your committee are unable to admit the force or even the propriety of these observations. The supposition on which they proceed is wholly groundless, and the parallel that they assume to exist, is imaginary.

There was nothing at all questionable in the proceeding of the Legislature in 1784. On the contrary, it is to the action of the Legislature of that time, that Trinity Church owes the preservation of its charter and of its estates.

For the reasons that have already been given, and for the additional reason that in 1784, the Constitution of the United States, that forbids the passage of any law impairing the obligation of a contract was not in force, the Legislature at that time had an absolute right to make any regulations in relation to the corporate powers and privileges of Trinity Church, and its members that they might deem it expedient to adopt. Trinity Church had no subsisting charter having the obligation of a contract, that the Legislature could violate or impair; and if such a charter had existed, there was no constitutional law, that forbade the Legislature to alter or to repeal it in the exercise of its own discretion. On the other hand, in 1814, the charter of Trinity Church as revised and modified by the acts of 1784 and 1788 was in actual force, and the proper evidence of a contract then subsisting between the corporation and the people of the State, and the Legislature consequently, by force of the Constitution of the United States, had lost entirely its jurisdiction over the subject, and was in truth inhibited from passing any law changing in any degree the provisions of the charter, without the consent of all whose rights or interests were liable to be affected by the alteration. Hence the act of 1784, although changing the rights of the cor-

porators, was certainly valid; while that of 1814, if it effected a similar change, was certainly void. To repeal the latter, may be a proper and most legitimate exercise of legislative power, an act of plain and necessary justice, while to repeal the former, were such a repeal competent to the Legislature, would be an act of undisguised oppression and injustice.

To repeal the act of 1784, could the repeal be sustained in law, would be to *revoke* the charter of Trinity Church, and by a necessary consequence to confiscate its property, as there would no longer be any corporators; there would be none to contest the right of the State to seize a vacant possession.

The act to which we shall next refer, was passed by the Legislature on the 10th of March, 1788, and will not long detain us. The Legislature in 1784, omitted to change the corporate name of Trinity Church, and hence the corporation continued to use the name by which it was created in the act of 1704: "The Rector and inhabitants of the city of New-York in communion of the church of England as by law established." A change of the name that the altered relations of the corporators rendered no longer applicable, was manifestly proper, and this necessary change the act of 1788 effected, by authorizing the corporation to take and use the name of the Rector and inhabitants of the city of New-York in communion of the Protestant Episcopal Church in the State of New-York.

There was no further action on the part of the Legislature of the State in relation to Trinity Church, until the year 1813, when the act of which the repeal is now recommended, was introduced into the Senate, and having in the same year been passed in that body, and the House of Assembly, finally became a law on the 25th of January, 1814, by the omission of the council of revision to return it with objections to the body in which it originated, within the period prescribed by the constitution. The circumstances attending the passage of this law, the mode of its introduction into the Senate, its reference in the Assembly to the Attorney-General, the opinion thereon of that officer, the objections reported to the council of revision against its passage, and the equal division of that body on that question, are fully and truly set forth in the memorial and accompanying documents that have been referred to your committee.

Neither on these circumstances nor on the actual provisions of the law, is it necessary that your committee should now dwell, since they intend to advert to all of them that they deem material in the course of the observations they now propose to submit.

Having stated the facts, and referred to the evidence on which the judgment of the Legislature must be founded, your committee will proceed to state the grounds on which they recommend the entire repeal of the act of 1814.

1. Because the act of 1814, was founded on the erroneous supposition that the right of voting for wardens and vestrymen of Trinity Church previous to the revolution, and until the act of 1784, was wholly governed by the provisions of the charter of 1697, and hence the consent of the Legislature to the passage of the law, was induced by a misapprehension of material facts.

2. Because the construction given by the Legislature to the previous acts of 1784, and 1788, was in its nature an exercise of judicial power involving private rights which should have been left to the courts, instead of being assumed by the Legislature.

3. Because the terms of the act of 1814, by their plain and necessary construction, dispense with those qualifications on the part of the corporators that by the founders of the church, by those from whom its property was derived, and by the Legislature in 1784, and 1788, was deemed essential to the preservation of the character and purity of Trinity Church, as a religious corporation, and may change the entire location and character of the corporators.

1. In stating that the consent of the Legislature to the act of 1814, was induced by a misapprehension of material facts, your committee are far from supposing that the distinguished men to whose exertions and influence the passage of that law is doubtless to be ascribed, entertained the design, or wish, to deceive and mislead the Legislature. Of such a design or wish they were wholly incapable. But that the Legislature in 1813 was in fact misled, that both the fact and the law of the case were misunderstood, and that material facts that ought to have been considered, were altogether overlooked by the Legislature, your committee are constrained to believe ; nor can they doubt that the evidence to which they mean to refer will produce a similar conviction on the mind of this Senate.

It was represented to the Legislature; that previous to the act of 1784, the charter of 1697 was the subsisting charter of Trinity Church, and that by its provisions, until then, the right of voting in the election of wardens and vestrymen, have been wholly governed, and the attention of the Legislature, if not diverted from, was not called to the fact, that the provisions in the original charter in relation to the right of voting had been wholly superseded, by the inconsistent provision of the act of the General Assembly in 1704, and that this law from the time of its passage had been followed and obeyed, by Trinity Church, as the fundamental law of its creation and government.

The petition of Trinity Church for the passage of the act of 1814, of which a transcript is given in the remonstrance referred to your committee commences in these words, "That so long ago as in the year one thousand six hundred and ninety-seven your petitioners were incorporated by letters patent under the great seal of the colony of New-York, and have ever since continued to be a body politic and corporate by virtue of *the said charter*,"—language evidently implying that it was under the charter alone that the corporate rights of Trinity Church were held and existed; an assertion not intentionally, but in fact untrue; if the charter of 1697 were either void from illegality when granted or if its provisions were superseded by those of the subsequent act of the General Assembly, as they assuredly were, if this act had any validity at all. The next paragraph of the petition is in these words, "That at the time of granting the same (the letters patent of 1697,) it was contemplated that Trinity Church should be the sole and only parish church in the said city."

It is quite immaterial what was contemplated by the Governor of the colony when he granted the charter, if no similar views were entertained by the general assembly when they passed the act of 1704, and certainly this act affords not the slightest proof, that it was contemplated or supposed by the assembly, that Trinity church was to remain forever "the sole and only parish church in the city.

The statement that Trinity church was intended to be the "sole parish church," was doubtless made as an argument for the passage of the law that was prayed for, but the futility of such an argument

would at once have been demonstrated by a reference to the act of 1704.

We add that this petition not only contains no reference to the provisions of the act of 1704, but has not even an allusion to its existence.

The reader of this petition drawing his only knowledge of the facts from the representations it contains, could never have inferred that such an act as that of 1704, had ever been passed; and still less would he have suspected, that from the time of the passage of this act, until some years after the revolution, Trinity church has been known in law, both in the grants it received, and in its own corporate acts, by no other name than that which this act imposed. And that until the year 1784, the electors for its wardens and vestrymen, had been governed by no other rule than that which this act prescribes.

It is evident from the report made by the Attorney-General to the Assembly, that his opinion that the proposed law to alter the name of Trinity church, would not defeat or vary any existing vested rights, was founded solely on the charter of 1697, and on the acts of 1784 and 1788; and the resolution of the Assembly requesting his opinion, as clearly shows that these were the only documents that he was requested to consider.

The acts of 1784 and '88 were the only acts that altered the charter. That of the general assembly in 1704 did not profess to alter an existing charter, but was an independent and original grant.—A new and complete charter, having no reference to the provisions of the former, and taking no notice of its existence—from the time of its passage it was in itself emphatically *the* charter of the church.

In the year 1813 two pamphlets were written and published with an avowed design to influence the action of the Legislature, and of the council of revision, in favor of the bill for which Trinity Church had petitioned. The earliest of these pamphlets, that entitled "Trinity church defended," is attributed to the late Bishop Hobart, at that time the Bishop of the Protestant Episcopal church in this State. And the second, entitled "Remarks on Trinity church bill," was published by the late Robert Troup, Esq., then one of the wardens or vestrymen of that church, in his own name. It will not be denied

that these pamphlets, (which have been reprinted and distributed among the members of the Legislature during its present session) from the character and position of the authors, may be appealed to with entire confidence, as expressing the views of the applicants for the bill to which they relate, and as evidence of the representations then made, and the arguments then used in order to obtain its passage.

In relation to the act of the General Assembly in 1704, the true, and probably only valid charter of Trinity Church, the first of these pamphlets observes a silence as absolute as that of the petition to which we have adverted—the superseded letters patent of 1697 being alone the charter, that it undertakes to explain and defend.

The second pamphlet preserves in its text, and in all its reasoning, the same silence. And the only allusion to the act of 1704 is to be found in a *note*, which, although brief, is so inaccurate that instead of enlightening the council of revision to influence whose decision the pamphlet was written, as to the true character and provisions of the act of 1784, it was almost certain to mislead them by inducing the erroneous belief that the two charters were in their substance identical, and that the act of the Assembly was only intended to confirm by enacting the letters patent of the Governor.

This note is at the bottom of page 21, and is as follows :—

"See law (of 1704,) in vol. 1, p. 60, of Van Schaack's edition of the colony laws which enacts the charter almost in *totidem verbis*."

The law can hardly be said to enact a charter that it never mentions, nor are the provisions of the two instruments identical in their substance or language. The name of the corporation is different; a different person is appointed rector, the mode of his induction is different, the qualifications of the voters are different, and numerous provisions found in the letters patent are wholly omitted in the law—Besides the act of 1704 on its face shows, that the then general assembly did not then recognize any previous existing charter; for after reciting that the inhabitants of the city of New-York of the communion of the church of England, as by law established, had acquired certain property, and erected a certain church, called Trinity church,

it incorporates "The rector and inhabitants of the city of New-York in communion of the church of England as by law established;" and then authorizes them to exercise such corporate rights, and hold the said property, "*as if the said rector and inhabitants had been legally incorporated, and made capable in the law, to take, receive, purchase, have, hold and use, and enjoy the same at and before the purchasing taking, receiving*," &c., which is entirely inconsistent with the idea, that the charter of 1697 was then considered valid and in force.

Your committee feel that it would be a waste of time to dwell longer on the evidence. The proof is complete and irresistible that the letters patent of 1697 were represented to the Legislature as THE CHARTER of Trinity church before the revolution, and as the only document of that period necessary or proper to be consulted in order to guide the Legislature to a correct decision, and that the act of 1704, a knowledge of the provisions of which would have manifested the error, was virtually suppressed. It remains then only to show that the misapprehension thus produced was material; and if we mistake not the materiality will appear to be such that had the character, the provisions, and the legal effect of the act of 1704, and its adoption by Trinity church been fully known and considered, it is not at all probable that the law of 1814 would have been passed; since it would then have been manifest that the arguments on which the advocates for the passage of the law seemed chiefly to rely were wholly inapplicable.

It is quite certain that the Legislature of 1813 did not mean by the passage of the bill before them to extend or alter the corporate powers of Trinity church, nor to affect or vary in any degree the rights of the corporators. They did not intend to introduce a new rule as to the qualifications of the corporators, so as to *exclude* any persons or class of persons from voting in the elections of wardens and vestry men of the church, who under the provisions of the act of 1784, were entitled to the privilege.

The reference made by the Assembly to the Attorney-General, conclusively shows that that body would never have consented to the passage of the law, had they believed that it would operate to defeat or vary any existing vested rights. But the necessary effect of the law was not merely to vary but to set aside and defeat existing vested

rights, if it operated to exclude even a single individual from the corporation of Trinity church, who according to a just interpretation of the law of 1784, was entitled to the name and privileges of a corporator.

Hence in order to obtain the passage of the law it was necessary to satisfy the mind of the Legislature that the qualifications of voters as defined by the second section of the bill, (the act of 1814,) although not the same in terms were identical in their meaning and practical construction with the qualifications of corporators as defined by the third section of the act of 1784. In other words, that the law they were required to pass only declared in express words the same meaning that the act of 1784 conveyed by a necessary implication.

The second section of the act of 1814 prohibits any person from voting at any election for the church wardens and vestrymen of the corporation who shall not have been for the space of one year preceding the election a MEMBER OF THE CONGREGATION of Trinity church or of one of its chapels. And admitting that the qualifications of the voters under both laws are in all other respects the same, it is quite certain that this limitation of the right of voting to "members of the congregation" is not found in the act of 1784. The term congregation has a definite meaning. It denotes all the persons who usually assemble for public worship in the same church, and hence the phrases "member of a congregation" and "a regular attendant on public worship in the church to which the congregation belongs," are equivalent in meaning; but it is impossible to read the third section of the act of 1784, and not confess that no such condition as that of a regular or of any attendance on the service of the church is there recognized.

By the terms of this section every pew holder, and every person who without being a pew holder, had partaken in the church within the year, of the holy sacrament, is entitled to all the privileges of a corporator; and looking merely to the language employed, we do not hesitate to say that no court or tribunal could possibly reject the vote of a person thus entitled, on the ground that he had not by his attendance on the services of the church during the preceding year rendered himself a member of the congregation. The difficulty of giving such a construction to the law of 1784 was very sensibly felt

by the advocates of the law of 1814, and it is the removal of this difficulty that the elaborate arguments of the writers of the pamphlets to which we have referred, were chiefly directed.

The substance of the argument may be given in a few words. It was assumed that the Legislature had a perfect right to supply the defective language of the act of 1784, by a *reference to the terms of the original charter of the church.*

It was contended that the original charter of the church the letters patent of 1697, in effect required, as a necessary qualification of the corporators entitled to vote, the same attendance in Trinity church on the services of the church that the words "members of the congregation" inserted in the bill of 1814 would be construed to imply. The charter made Trinity church the parish church of the city, and limited the right of voting to the inhabitants not of *the city*, but of the *parish*. The word "parish" it was said, imports a religious congregation or society, or if to be understood in a territorial sense, means that "compass of ground in the neighborhood of a church which is occupied by the people *worshipping in that church.*"

That as a parishioner, is therefore a stated worshipper, the words "members of the congregation" in the bill of which the passage was desired, expressed no more than the words "inhabitants of the parish" in the original charter necessarily implied.* On the accuracy or difficulty of this reasoning your committee neither mean nor wish to express an opinion.

Whether the interpretation thus given to the peculiar terms of the charter of 1697 was reasonable and just, or strained and fanciful is a question that it is quite unnecessary to consider. It is sufficient to say, that had it been known to the Legislature of 1813, that prior to the act of 1784 the colonial act of 1704, which neither created a "parish" nor limited the right of voting to the "inhabitants of the

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* This definition as given in the remarks on Trinity church Bill, p. 18. And the ingenious author of a pamphlet, published in Albany, says "This ingredient of being members of the congregation is obviously but a repetition in substance of the original qualification in the charter of 1697, that they should be "inhabitants of the said parish" in "communion as aforesaid," (Review of the grounds, &c., p. 12;) and this obvious identity of the provisions is the only ground on which he justifies the introduction of the first in the law of 1814.

parish," was the true charter of Trinity church, by the provisions of which all its proceedings and elections had been governed, they could not have failed to see that the arguments founded on the exploded language of a disregarded and superseded charter, were wholly irrelevant. They would then have known that to introduce the clause "members of the congregation," as a new qualification of the corporators, was to alter essentially the existing charter, as modified by previous legislation; and by necessary consequence was to vary or defeat the existing rights of some of the corporators, and we are warranted to say that with this knowledge they would have rejected the bill, that under false impressions and by fallacious reasoning they were induced to sanction.

It has been said, and with great apparent confidence, that the act of 1704, the true charter of Trinity church was very properly withdrawn from the notice and rejected from the consideration of the Legislature in 1813, because by the action of the Legislature in 1784 the act of the Colonial Assembly had been wholly repealed.

Were this assertion true, it would be difficult to perceive its application, since its truth would not at all weaken or vary the force of the considerations that have already been urged. Admitting that the act of 1704 was repealed in 1784, the certain truth remains, that until it was so repealed, it was the charter of Trinity Church—the charter by which the rights of the corporators, and the qualifications of the voters were regulated and defined, and that consequently it was the only document to which, with any propriety, a reference could be made, as an index to the intentions of the Legislature in 1784, to aid the interpretation of their acts.

It so happens, however, that the assertion that the colonial act was repealed, is just as erroneous, as the inference drawn from it, on the supposition of its truth, is plainly illogical. The act of 1704 was not *wholly* repealed in 1784, nor has it since been repealed. It is now at this day the charter of Trinity Church, and were it not so, it is at least doubtful whether that church would have any charter at all.*

* It is true that the act of 1784 recognizes the existence of the charter of 1697, but there are no words that give to it any validity that it did not before possess. If it was a nullity when granted, and it was certainly so regarded by the colonial assembly, or if it were superseded and abrogated, by the subsequent act of the Assembly, express words were palpably necessary to create or restore its validity. The mere repeal of the colonial act would not have that effect.

It is true that the preamble to the act of 1788, altering the corporate name of Trinity Church, states that the act of 1704 had been repealed ; but it will not be supposed or pretended that a false recital can have the effect of an *actual repeal.*

If the constitutional law of Trinity Church was repealed at all, it is in the act of 1784, to which that of 1788 refers, that the repealing clause must be found. It is not to be denied that such a clause is apparently found in the act of 1784. The 6th section of that law enumerates the colonial act of 1704 in the list of those that it expressly repeals, and this repeal, looking merely at the words there used is absolute and total ; but the preamble to this section clearly explains the motives of the Legislature in the contemplated repeal. It declares that its sole object was to carry into full effect those parts of the constitution of the State, " which declares that the free exercise and enjoyment of religious profession and worship, without discrimination or preference shall forever hereafter be allowed within this State to all mankind, and that all acts of the Legislature of this State while a colony, and all parts thereof which may be construed to establish or maintain any particular denomination of christians or their ministers be abrogated and rejected as repugnant to the said constitution." And the repealing clause itself, concludes, with declaring that the acts it had enumerated were repealed, " as inconsistent with, and repugnant to the constitution of the State." It is quite certain that most of the provisions in the act of 1704, are in no sense inconsistent with or repugnant to the former constitution of *the State*. They are no more so than the corresponding provisions in the charter of 1697 ; and if upon such a ground, a total repeal of the act had been judged necessary, the repeal, for the same reason, must have been extended to the the charter of 1697. Hence a court of justice, founding its opinion only upon the 6th section of the law and its preamble, might reasonably arrive at the conclusion that the repeal of the colonial act, although entire and absolute in its terms, was limited in its intention, and was justly to be carried no farther than was necessary to carry into full effect, the object that the Legislature proposed to accomplish. Admitting however, that judges would feel some embarrassment, in adopting this conclusion upon the premises stated, there is another section of the law, that by removing all doubt or obscurity from the intentions of the Legislature, would at once relieve them

from the difficulty. The preamble to the act of 1784, refers not only to the charter of 1697, but by its title and date, to the colonial act of 1704, and also in a subsequent clause, to another colonial act passed in 1693 ; and the first section after directly repealing so much of the charter and of the law *first* above particularly mentioned, as relates to the induction of the rector by the governor, and to the power and authority of the Bishop of London in and over the said corporation, concludes with these words : "And that nothing in this law shall be in any wise construed to annul, injure, repeal or make void the said charter, or the said law first above particularly mentioned, where the same are not inconsistent with the constitution of this state." Language so explicit extinguishes doubt, and puts an end to construction. The words used admit but one interpretation. Unless it can be shown that the sixth section is not a part of the law, they must have the same effect, as if it had been said that, "nothing either in the 6th or in any other section of the law," should be construed in the manner prohibited. It is the whole law and every section of the law, and every word of every section, that the general words, "nothing in this law" embrace.

It is the duty of a court to reconcile if possible, the conflicting provisions of a law that they are called to interpret. Construe the 6th section as a total repeal of that of 1704, and that of 1784 exhibits a contradiction that can never be reconciled. Limit the repeal to those parts of the act that are repugnant to the constitution, and the intentions of the Legislature are rescued from uncertainty and restored to consistency. Your committee are quite aware that an opposite opinion has long and extensively prevailed ; but they repeat with an entire, and they trust not unbecoming confidence, that the act of 1704, has never been wholly repealed ; but that all its provisions not inconsistent with the constitution of the State, or altered in terms, are still in force, and now form an essential part of the charter of Trinity Church.

Your committee, however, are fully persuaded that the applicants and advocates of the law of 1814, entertained a different opinion. Deceived by the preamble to the act of 1788, they doubtless believed that the act of 1704 was wholly repealed, and that its repeal rendered any reference to its existence or provisions quite unnecessary, and it

is upon this ground, that these gentlemen are entirely acquitted of any intentional misrepresentation or concealment.

Still the errors under which they labored and in which they involved the Legislature, are not the less grave, nor their consequences upon the passage of the law less certain. The object of introducing the words "members of the congregation" into the act of 1814, is *quite apparent.*

It was to exclude from the corporation of Trinity Church all the inhabitants of the city, who although otherwise fully qualified by the terms of the law of 1784, did not happen to belong to the congregation of Trinity Church, or any of its chapels; that is, to *exclude* a large and rapidly increasing majority of the Episcopalians of the city. To such an exclusion the Legislature would certainly never have consented, had they not been induced to believe that it was justified by the existing charter of the church: and the only arguments to prove that it was thus justified, were derived from a charter which if ever valid, had for more than a century ceased to be operative, and the fact that within a few years after its date, it was superseded by an authority paramount to that by which it was granted was wholly omitted.

Besides by defining the corporators by the term "members of the congregation of Trinity Church or any of the chapels belonging to the same," and not prescribing the boundaries of such congregation, nor the location of such chapels, the corporation which before was confined to the city of New-York, may be extended to any place where Trinity Church may choose to erect chapels; and to any persons who may become "members of the congregation," *although* they may reside out of the city of New-York; and thus this corporation which, until the act of 1814, was expressly confined to the city of New-York, may be extended indefinitely, beyond the boundaries of New-York, while all the Episcopalians in the city of New-York, who are not members of the congregation of Trinity Church or any of its chapels, are excluded; thereby changing the location of the corporation, as well as that of the corporators, and entirely defeating the whole object of its founders and donors; and although this has not as yet been carried out, who can say that it will not be, when policy or interest or different councils may prevail.

In order to avoid a contract, it is not at all necessary that a misrepresentation or concealment of material facts shall appear to have been intentional, whether it proceeded from design, or ignorance, inadvertance, or mistake, the result is the same; and the reason of the rule is evident, the misrepresentation or concealment, alters the basis on which the contract is founded and vitiates the mutual consent that is essential to its validity. These principles are just as applicable to an act of the Legislature as to the contracts of individuals, and their application to the present case seems to render the repeal of the act of 1814 a necessary duty. The consent of the Legislature to the passage of the law was induced certainly not by fraud, but as certainly by error, and they were led into the error by those who, although laboring themselves under the same mistake, were bound to know and disclose the truth; and if the passage of a law thus obtained involved even a possible sacrifice of rights that ought to have been protected, can there be a plainer duty incumbent on the present Legislature than to remedy the errors that their predecessors unintentionally committed. It may, however, be said that it is in a court of justice that those who complain of the wrong should seek their remedy, and that the judges upon proof of the suppression or erroneous statement of material facts would be bound to vacate the law that the Legislature are solicited to repeal.

That a court of law, however, in a case like the present, would be competent to afford redress, by annulling the law, is a position more than doubtful. Your committee believe that there is no precedent by which it can be sustained, and that to admit such a precedent to be established would be to sanction a dangerous encroachment by the judiciary on the powers and province of the Legislature. The Revised Statutes authorize the Supreme Court to vacate or annul any letters patent granted by the people of the State, not only when it appears that they were obtained by a fraudulent suggestion or concealment, but equally when they are proved to have been issued through mistake or ignorance of material facts. It is, however, worthy to be remarked, that by a subsequent section the exercise of the same power in relation to an act of the Legislature, creating or renewing a corporation is *limited* to the case, when the suggestion or concealment of material facts by which the passage of the law

was obtained appears to have been *fraudulent*. The exercise by the Supreme Court even of this modified power is confined to the cases in which the Attorney-General has been specially directed by the Legislature to institute the necessary proceedings, and it is only in relation to an act creating or renewing the charter of a corporation that the power can be exercised at all. (R. S., 2d ed., p. 479, § 12, 13.) The provisions relative to letters patent is a legislative sanction of a principle of universal equity, namely the invalidity of a contract obtained through a mistake or in ignorance of material facts, and the subsequent section equally proves that the application of a principle to an act of the Legislature, is by a wise jealousy reserved to the judgment and discretion of the Legislature itself. It would be easy to prove that this distinction is reasonable and just, and that to abandon it, would be to overthrow the independence of the Legislature, and in truth to involve the whole administration of statutory law in confusion and uncertainty. But this proof is unnecessary; it is sufficient to say that the distinction is established. Hence it is certain that if the passage of the act of 1814 was obtained in the mode that we have supposed, it is the exclusive province and duty of the Legislature to grant the relief to which the parties whose rights may have been affected by the law are certainly entitled.

In closing this branch of their report your committee must be permitted to add a single remark, to show the hazard that inevitably attends an interference by the Legislature, in the decision of legal questions, by which private rights may be impaired or affected.

The Legislature were required to construe the previous acts of 1784 and 1788. They were required to say that these acts truly *construed*, sanctioned the law they were solicited to pass, and they were led to believe, that this true construction was to be ascertained by a reference to the prior charter of the corporation. *Now* it is quite certain that had the questions which the Legislature, forgetful of its true functions, undertook to decide, been submitted to a court of justice the reference to the original charter in order to fix the true interpretation of the third section of the act of 1784, would never have been allowed. This section as an explanatory law was designed to settle finally all questions as to the rights and qualifications of the corporators of Trinity Church, and it is a settled rule that such a law is

to be construed only by its own terms, and not by any equity or intendment derived from the prior law, that by explaining it was meant to supersede. This rule is established by many English decisions, and has the deliberate sanction of the supreme court of this State. (Butler and Baker's case, 3 Coke, 35. Dalbury Parish *v.* Foster, Carthew, 396. Godfrey *v.* Waite, Jones 35. Dash *v.* Van Kleek, opinion, Thomson, 7 Johnson, p. 497.) And the reason of the rule is evident, when any expressions of the prior law are not to be found in that which is explanatory, it is a just presumption that they were intentionally omitted, and hence to re-insert them would perhaps introduce or renew the very doubts and uncertainty it was meant to remove. Thus, in the present case, had the words "members of the congregation," as qualifying the rights of corporators entitled to vote been found both in the charter of 1697, and the act of 1704, the omission in the law of 1784, would be conclusive to show that the Legislature deemed it inexpedient to retain them, and if the word "Parish" has substantially the same meaning as congregation, its rejection must be regarded as equally deliberate and final.

2d. Our last remarks are a fit introduction to the second ground on which, in the judgment of your committee, the entire repeal of the act of 1814, may be justly demanded from the Legislature. From the very nature of the questions which that law attempted to decide, it was an unwarranted and dangerous exercise of power strictly judicial. The exercise of a power unwarranted by the principles of our constitution, and most dangerous in its operation upon the rights of parties whose interest may be effected. It is distinctly admitted that the act of 1814 is only to be vindicated on the ground that it is purely declaratory, in other words that it is a true expression of the rights of the corporators of Trinity Church, as defined by its charter, and by the previous acts of the Legislature.

It is admitted that if it altered the existing rights of the corporators, it was a plain violation of the Constitution of the United States.*

But it seems to have been forgotten that the act of 1814, was a declaratory law on a subject over which the Legislature, as such, had no jurisdiction, and in relation to which it was impossible that it

*Vide Preface to reprint of remarks on Trinity Church Bill.

could interfere, unless at the hazard of disturbing existing interests and destroying vested rights.

It is asserted that the act of 1814 was *not* a mere declaration of the true meaning of prior statutes, but was declaratory of a result that had already occurred, namely, that those Episcopalians of the city who had become corporators of the churches, had thus assumed relations, incompatible with their continuance as corporators in Trinity church, and had thus disfranchised themselves by their own voluntary act. (Vide preface to reprint of remarks, p. 4.) But it is evident that this statement instead of removing or diminishing those objections to the continuance of the act of 1814, which are derived from its character and possible operation, greatly increases and strengthens them. If it was indeed the intention of the Legislature to make this declaration, a plainer and more unjustifiable exercise of judicial power it would be difficult to imagine.

Whether the relation assumed by those Episcopalians who had united themselves to other religious corporations in the same communion, are incompatible with their continuance as corporators in Trinity Church, whether their act in thus uniting themselves is to be deemed a voluntary disfranchisement or not, are questions of great difficulty and nicety, that a court of justice is alone competent to determine, and that a Legislature has no right to entertain or consider. If these were the questions that the Legislature in 1813 meant to decide, the act of 1814 was a sentence of disfranchisement, involving, as a necessary consequence, a confiscation of the rights of property, pronounced by a tribunal having no jurisdiction, without any investigation of the facts, any examination of the law, or any hearing of the parties. And it is this sentence that the present Legislature which has the power to annul, is required to confirm. Whether this legislative decision were just or unjust, your committee are not concerned to inquire, nor is it necessary for the Legislature now to determine. It may be that a court of law upon full consideration of the facts and the law, would have arrived, or may hereafter arrive, at the same conclusion; but that such a sentence, in the form of a legislative act, ought never to have been pronounced, and that a precedent so unsound in principle, and so mischievous in its effects should be rendered harmless by its removal, is the serious conviction that your committee feel it their duty to express, and which they trust that the

Legislature, in its future action, will adopt and manifest. But even this objection does not exist as to all that class of Episcopalians in the city of New-York who are not members of any congregation as such in the city.

Were it certain that courts of justice considering the law of 1814 as purely declaratory, would give no effect to its provisions, except as far as they might deem them to be a just exposition of the rights of the corporators as defined by the acts of 1784 and 1788, the protection of the memorialists could not be said to require its repeal; but the effect which is and ought to be attributed, and which the remonstrants and their counsel contend ought to be attributed to the law, is that of an *absolute judgment of a court of competent jurisdiction and ultimate authority;* and hence the question instantly arises whether such an effect can be given to a declaratory law, without a violation of the most essential principles of our constitution and government; and if this question must be answered in the negative, the only effectual mode of preventing such an unjust application of the law, is to repeal it.

There can be no ground of complaint on the part of the remonstrants, if the rights of Trinity Church as a corporation are left to be determined by the courts of justice upon the same grounds as if the act of 1814 had never been passed. If the qualification of voters as defined by the 2nd section of that law are, as has been alleged, in precise conformity to the qualifications of corporators as declared by the act of 1704, the courts of justice will so decide, and the decision will be a much better and more satisfactory security against groundless claims, than the provisions of the law. On the other hand, if the provisions of the law construed according to their obvious meaning, in the opinion of the proper legal tribunals, would vary materially the rights of the corporators as they previously existed, by excluding the large majority of the Episcopalians of the city, from any share in the administration or any benefit from the application of the vast property in which they are jointly interested, it is certain that the present rulers of the church ought not even to wish to retain a law that is thus proved to have been unjust and unconstitutional in its origin, and to which even the Legislature that passed it would never have consented, had they known or anticipated that such could be its operation. In few words, if the law of 1814 were a true declaration of the exist-

ing rights of the corporators, its repeal will be harmless, it will change nothing, the same declaration will be made by the courts. If it altered the right of the corporators it was unjust when passed. The Legislature was deceived that passed it, and to complain of its repeal, is to avow a desire to retain the fruits of injustice and error.

It is as a declaratory law that the act of 1813 has been vindicated, and it is because it was a declaratory law that your committee condemn its passage, and urge its repeal.

On this question English precedents and authorities are wholly inapplicable. There are no bounds to the authority of the English parliament, and all its acts with whatever forms their injustice or usurpation may be clothed are legally valid. It is upon principles wholly different that we are to judge of the validity and propriety of declaratory laws in a government like our own. A declaratory law is a law attempting to fix the true meaning and construction of a prior statute, and claiming to give to the interpretation that it adopts the effect of a judicial and final decision.

Such was the avowed object of the act of 1814, avowed in the very preamble of the law, and such is the effect now sought to be given to the decision that the Legislature then pronounced.

In the judgment of your committee if there is any maxim of constitutional law that demands a peculiar reverence and an inviolable observance, it is that which forbids the union of legislative and judicial powers in the same body, and it is this maxim that in the passage of every declaratory law such as we have described, is plainly violated. It has been justly observed that the union which this maxim prohibits, is the very definition and essence of tyranny, and that it is only to be prevented by a rigid adherence to the rule, "that the power that makes, is not the power to construe a law. (1 Kent's Com. Ed. 5, p. 456.) We but repeat the language of the venerated commentator on American law, (whose dicta are themselves rapidly acquiring the force of laws,) that without having recourse to the elementary writers, or to the popular conventions of Europe, we have a most commanding authority in the sense of the American people, that the right to interpret laws, does and ought to belong exclusively to the courts of justice. (Dash *v.* Van Kleek, Kent, Ch. J.,

7 John. 500.) By repealing this law we shall restore the courts of justice in this State to the untramelled exercise of the right that exclusively belonged to them, and which the Legislature ought never to have usurped, that of interpreting the law of 1784 and 1788, according to their own sense of their true meaning and legal construction. By placing the repeal on this high ground we shall probably prevent any future abuse or usurpation of power similar to that we now correct.

The third and fourth reasons that have decided the committee to recommend an entire repeal of the law under consideration they will now proceed briefly to explain.

The act of 1814, by a very singular omission, abandoned all the securities for continuing and preserving the distinctive religious character of Trinity church, as a protestant episcopal church, in communion with the church of the State, that the previous acts of the Legislature had so carefully provided. In the act of '84, that security is found in the provision that requires the corporators to be professing members of the episcopal church, and in the act of '88, it is strengthened and contemplated by the name given to the corporation of "the rector and inhabitants of the city of New-York, in communion of the protestant episcopal church in the State of New-York;" a name that we cannot regard as purely verbal, but as meant to designate the true character of the persons incorporated.

Such was the evident and declared intention of the name given to the church in its original charter, and we are bound to presume that the substituted name was intended in the same manner to be descriptive and significant. By changing this name to that of rector, church wardens and vestrymen of Trinity church in the city of New-York, the security that it gave, and the obligation that it imposed are wholly lost, and the change effected by the first section of the same act, equally forfeits the security that the act of 1784 provided, in not requiring that the persons entitled to be in the election of church wardens and vestrymen shall be professing members of the episcopal church. It has indeed been said that this qualification is retained in the provision that requires that the persons entitled to vote "shall form a part of the same religious corporation." But this interpretation of the words in question your committee are compelled to reject,

as not merely forced but wholly inadmissible. On reading the second section in which the words forming part of the same religious corporation are found, it will at once be seen that they refer to the chapels belonging to Trinity Church, and not to the individual members of the congregation, and that from the place in which they stand, they are susceptible of no other interpretation; the words "part of" can refer to nothing else than "chapels" forming a part of, &c. Nor are these remarkable omissions in the act of 1814 to be supplied by a reference to the original charters of the church. The only provisions they contained, for preserving to the corporation a distinctive religious character were those that required the rector and inhabitants whom it incorporated to be of the communion of the church of England, and which subjected the church to the spiritual jurisdiction of the bishop of London. But the security that these provisions afforded was necessarily lost, when the communion of Trinity church with the church of England was dissolved, and its subjection to the jurisdiction of the bishop of London wholly abolished. Your committee therefore do not hesitate to say that if the act of 1814 is to be sustained as a valid law, Trinity church by the obligation of its charter, and as a necessary condition of its existence, is no longer a *protestant* church. Should the rector, church wardens and vestrymen, supported by a majority of the congregation, choose to unite themselves to the the church of Rome, they may retain their charter, all the privileges it confers, and all the property that by virtue of its provisions and by by subseqnent grants they now enjoy, all the influence and wealth of this powerful corporation, may hereafter be devoted to the spread of the very doctrines that by the original terms of its creation, it was bound to resist, in utter disregard and in flagrant violation of the intentions of those by whom their church was founded, and from whose bounty their vast possessions were derived.

Your committee are very far from asserting or meaning to insinuate that there exists any present actual danger of such a transfer, yet when we advert to the nature of the new doctrines that are said to prevail extensively in the Episcopal church, and to the effect which they are known to have produced on the minds of those who have embraced them, it must be confessed that the apprehensions of those who believe that Trinity church may lose its protestant character, are not to be derided as merely visionary. Against even the possible

occurrence of such an event those Episcopalians of the city and State who adhere with an undiminished love to the protestant doctrines of their church, are entitled to a full security, and by restoring the charter of the church to its original purity and integrity that security will be given.

There is another omission in the act of 1814, quite as singular, although by no means as alarming in its possible consequences as that we have already noticed.

It is the protestant *Episcopal inhabitants* of the city of New-York, that the original charter alone incorporates, they alone are to elect the wardens and vestrymen of the church, and to their use alone is the property that the corporation is permitted to hold and acquire to be devoted.

In the acts of '84 and '88, this limitation of the benefit of the charter to the inhabitants of the city of New-York, is expressly retained, in that of 1814 we shall look in vain for a trace of its existence. If the persons claiming to vote under the provisions of that law in the election of church wardens and vestrymen, are members of the congregation of Trinity church or of any of its chapels, and are pew holders and communicants, their claim can not be resisted whether they reside in the city of New-York, or that of Brooklyn or Jersey, or elsewhere, as we have before shown. The law does not require their inhabiting in any particular place as a condition on which the exercise of their rights depends.

That the omissions that we have thus shown to exist in the act of 1814 are unimportant, and the changes that they have effected in the the charter of the church, as it previously existed, slight and immaterial, will not be pretended. They are of primary and vital importance. They violate the most essential conditions on which the exercise of the privileges that the charter conferred was made to depend.

It would be difficult to imagine a more grievous violation of the rights of the corporators, than a law permitting the transfer of their corporate privileges, and corporate property to persons neither inhabitants of the city of New-York, nor members of a protestant church, and if the right of electing wardens and vestrymen is vested

only in those to whom it is given by the law of 1814, there are no longer means by which the transfer that we have described can be prevented. That alterations so material, so unjust in the charter of Trinity church were designed or contemplated by the applicants for the law of 1814, your committee are very far from believing. There is no ground for the belief or suspicion. It was to a different object that the minds of the advocates for the law were directed, and in the anxiety of their zeal to accomplish this the defect to which we have adverted arose. Their existence and their consequences wholly escaped their attention. But these defects do exist. They form an additional and very striking proof of the hazards that attend judicial legislation ; and the wrongs and evils that their continued existence might produce, it is the duty of the Legislature to remedy and prevent, by the repeal of the law that may be construed to give them a sanction.

That this law was passed hastily and probably without much examination, will be seen by reference to the journal. On the 17th of March, 1813, the petition of Trinity Church, praying for the passage of the law was presented and read in the Senate. On the same day the member who introduced the petition asked for leave to bring in a bill pursuant to its prayer. Leave was given, and on the same day the bill was introduced, read a first and second time, and referred to a committee of the whole. On the 25th of March, the bill was finally passed in the Senate, and on the 2d of April in the Assembly, and in neither house was there any reference to a committee, to investigate and ascertain the facts, to examine and report upon the law, and thus within fifteen days from that on which the petition was read, a bill that, regarding the magnitude of the interests involved, and looking to its immediate and prospective consequences, was probably as weighty and important as any that the Legislature of this State has ever adopted, so far as depended upon the action of the two houses, became a law.

On these proceedings your committee deem it unnecessary to make any comments. It is manifest that the bill was passed into a law with a despatch not usual in cases of such magnitude.

In conclusion it will not escape the attention of the Senate, that your committee have not expressed any opinion as to the validity of

the grounds on which the memorialists seem chiefly to rely in seeking the relief for which their memorial prays, namely, that the act of 1814 was unconstitutional, as violating the existing vested rights of the corporators of Trinity Church, their right of voting, and consequently their rights of property. The silence of your committee on these topics is intentional. It springs from their entire conviction, that the questions which they involve are precisely those that the Legislature has no right to determine or consider. The present Legislature have no right to say, that the rights of the memorialists as defined by the act of 1784 have been violated, and that they are now legally entitled to the privileges that they claim, exactly for the same reasons that the Legislature of 1813 had no right to say, that the Episcopal inhabitants of the city at that time not members of the congregation of Trinity Church or of any of its chapels, *were not* entitled to the privileges that by the terms of the bill they passed were expressly denied to them. An affirmative decision would be quite as truly an usurped exercise of judicial power as a negative. Your committee have no wish to imitate the example they condemn. They desire to abolish, not to follow the precedent. If the memorialists really possess the rights that they claim, they should be left to assert and vindicate them in a court of justice since it is the exclusive province of a court of justice to establish the validity of thei claims.

But your committee are of opinion that the access of the memorialists to a court of justice should no longer be barred, and that the impediment to a proper assertion of their rights that a Legislature has created, should be wholly removed.

The repeal of the act of 1814, will effect this removal, but will in no manner express the sense of the Legislature, as to the legal or equitable rights of the contending parties. Such a repeal will indeed be a solemn recognition of the truth, and commanding authority of those maxims of constitutional law, that we have shown to have been violated. It will be evidence of our serious conviction that the limit by which the respective departments of our government are wisely separated, ought never to be transgressed, and of the expediency of affording this evidence, your committee cannot doubt, and they cherish the hope that the Senate, by a prompt and decisive action will ratify the sentiments that they have expressed.

It remains only to state why your committee, instead of limiting the repeal, that they recommend to the first and second sections of the act of 1814, are of opinion and advise that it should embrace the whole law. The third, fourth, and fifth sections, it will be seen on examination, are liable to the principal objections, that have already been stated; each of them involves a plain exercise of judicial power, or such an alteration of the chartered rights of Trinity Church, as it was not within the competence of the Legislature to establish. The main object of these sections is to exclude from the corporation of Trinity Church, the individual members of the congregation of every chapel that had already or might thereafter be separated from the church. They were meant therefore, to create or produce a disfranchisement, that if not created by the existing charter or by law, the Legislature had no right to pronounce. It is true that these sections also profess to confirm the previous or future grants of Trinity Church to religious societies, and to authorize upon certain terms, the future separation of chapels, and their erection into independent churches, but we cannot believe that it will be seriously asserted that legislation for either of these purposes was necessary or proper.

The grants made by Trinity Church to other religious corporations were either authorized by its existing charter or they were not. If they were, their confirmation by the Legislature was useless; if they were not, the Legislature had no right to confirm them. Since the Legislature could not sanction a breach of trust to the prejudice of those for whose use the property was exclusively intended. If it be said that the validity of such grants was merely doubtful, the the answer occurs, to resolve such doubts, is the province of the judges, not of the Legislature. In the mind of a lawyer, the legislative confirmation of a deed, always excites doubts instead of removing them. Every lawyer knows that it affords no security to the party who holds the property. If the deed is void in law, and whether it is so or not, a court of law can alone determine. Some other person than the grantee must be entitled in law or equity to the property conveyed, and his rights the Legislature cannot change; under the pretext of confirming a grant to one person, it cannot confiscate the property of another. Your committee are well assured

that those who hold the property that Trinity Church has conveyed, have no anxiety as to the security of their title, and no desire of legislative confirmation.

The provisions in relation to the separation of chapels, your committee regard as manifestly useless. The repeal of the statutory provision would never affect the validity of such a separation, by that mutual consent which the law requires.

The 6th section of the act has no special relation to Trinity Church; but on distinct grounds, is highly objectionable, nor can your committe refrain from expressing their great surprise that the provision of this section has been suffered for so long a period to continue in force. To relieve a religious society from the obligation of making an annual report to the Legislature is, in the judgment of your committee, to render nugatory all those provisions of its charter, and other laws that impose any limitation on the amount of its property or income. Unless the report is required and made the salutary prohibition, will never be enforced. The 6th section of the act is therefore a virtual abandonment of all those sound maxims of public policy, by which the necessity of limiting the property and income of religious corporations has been inculcated.

Your committee in conformity to the views they have expressed ask leave to introduce a bill.

EXAMINATION

OF A

MINORITY REPORT

MADE BY THE

HON. ORVILLE CLARK,

TO THE

SENATE OF THE STATE OF NEW-YORK,

ON THE

MEMORIALS

OF INHABITANTS OF THE CITY OF NEW-YORK, IN RELATION TO

TRINITY CHURCH.

ALBANY:
PRINTED BY C. VAN BENTHUYSEN AND CO.
.....
1846.

EXAMINATION

Of a minority report made by the Hon. Orville Clark, to the Senate of the State of New-York, on the memorials of inhabitants of the city of New-York, in relation to Trinity Church.

The committee on charitable and religious societies of the Senate of the State of New-York, to which were referred the memorials and remonstrances on the subject of legislative interference with the charter of Trinity church, having disagreed in their conclusions, two reports have been made by its members. One, by a majority of the committee recommending "that no legislative action be had on the subject, and that the prayer of the petitioners be denied;" the other by the Hon. Orville Clark, a senator from Washington county, recommending the repeal of the act of 1814. This report of Mr. Clark's occupies thirty-five pages, and contains so many extraordinary statements, and what are deemed erroneous representations of facts and documents, and so many inferences believed to be entirely unwarranted, as to require an exposition of its errors and fallacies by some one whose leisure will permit that thorough examination which it is hardly possible for a member of the Legislature to bestow, amid the numerous and various subjects which at this time occupy attention.

With the design, and in the hope of throwing some light on what Mr. Clark has rendered obscure, and of assisting an intelligent and impartial judgment, these pages have been prepared and are respectfully submitted for candid consideration. They will be confined to an examination of Mr. Clark's positions, and any repetition of the very able views of the majority of the committee will, as far as possible, be avoided. Nor will an attempt be made to notice many remarks and statements in Mr. Clark's report, which seem calculated rather to excite and inflame prejudice than to aid judgment, and which have a very remote, if any, bearing upon the questions at issue. This course is adopted to avoid excessive prolixity, with entire confidence in the intelligence of those for whose use these pages are intended, and in tneir determina-

tion to decide and act uprightly and conscientiously. In the style of these remarks, an effort will be made to imitate the modest and unassuming manner of the report of the majority of the committee, rather than the somewhat positive tone of Mr. Clark's report; and care will be taken not to affirm that to be undeniable, which admits of serious question, or to pronounce that impossible, which may have actually occurred.

Although the other members of the committee have differed from Mr. Clark so entirely in their conclusions, yet, a casual reader would infer from the language of his report, that the committee had really agreed on every important point, and concurred in the rseults. Thus in p. 7 it is said "*your committee* have no doubt or hesitation in stating the necessary effect of the treaty of peace of 1783," &c.; at p. 10, "But *your committee* are unable to admit the force or even the propriety of these observations." In p. 12, the language is quite inaccurate "your committee will state the grounds on which they recommend the entire repeal of the act of 1814." Surely *the committee* has made a very different recommendation. And the report at p. 35, thus closes: "your committee in conformity to the views they have expressed, ask leave to introduce a bill." Without pursuing these references further, sufficient appears to show the carelessness with which the report has been ushered before the public, and to excite a doubt whether there may not be similar carelessness in other equally important portions of it.*

It is quite remarkable that Mr. Clark wholly repudiates the grounds on which the memorialists placed their case and solicited the intervention of the Legislature, and utterly denies the sufficiency of those grounds to justify the repeal of the act of 1814. He says "that the questions which they involve are precisely those that the Legislature have no right to determine or [even] *consider*." (p. 33.) "If the memorialists really possess the right that they claim, they should be left to assert and vindicate them in a court of justice, since it is the exclusive province of a court of justice to establish the validity of their claims." (p. 33.) As this is the same conclusion expressed by the majority of the committee in their report, it would after all, seem that the committee were in fact unanimous. Still, Mr. Clark proceeds to say that "*the*

* It is due to the Hon. Senator to state, that the newspapers containing the account of the presentation of the minority report, added that Mr. Clark before reading it, apologised for its being in the form of a majority report, and engaged to alter it in that respect before delivering it to the printer. And the bill reported by him, purported to be brought in by Mr. Clark from the minority of the committee. Still, to readers who may never see the bill or the newspaper account, the report as printed is calculated to convey an entirely erroneous impression.

committee are of opinion that the access of the memorialists to a court of justice should no longer be barred, and that the impediment to the proper assertion of their rights, created by the act of 1814, should be removed."

The majority of the committee expressly deny that any obstacles exist to the legal assertion of the rights of the memorialists, because if the act of 1814 is unconstitutional, the courts will so declare. Mr. Clark has not stated with explicitness, or indeed at all, *how* the act of 1814 bars the access of the memorialists to a court of justice, or *how* it is an impediment to a proper assertion of their rights. This is a point which has been again and again presented to the memorialists and their advocates, and their attention invited to it. They have been asked, the Legislature has been asked, why interpose at all, when there is no occasion for it? And yet no answer is given—no necessity for the interposition is shown. The elaborate argument of Mr. Clark furnishes none, except that the act of 1814 is, in his opinion, a bad precedent of judicial legislation. He contends that it transcended the legitimate powers of the Legislature, that it violated rights secured by compact, but asserts that the memorialists should "be *left* to assert and vindicate them (those rights) in a court of justice;" and yet he would repeal an act which, if his argument proves any thing, is a perfect blank, is no bar, and presents no impediment whatever to the legal assertion of those rights. There are doubtless many bad precedents on the statute book, and some laws which our courts have pronounced unconstitutional. But, until the present instance, it is confidently believed no bill has been reported to expunge those precedents or to repeal those laws, merely because they were "mischievous in their effects," as examples, and therefore should be rendered "harmless by removal." Confidence in subsequent legislatures has been felt, that their own reason and intelligence would prevent their being led astray by unsound precedents or void laws. Mr. Clark does indeed say, (p. 27,) that "were it certain that courts of justice would give no effect to the act of 1814, the protection of the memorialists could not be said to require its repeal." But, he says *it is contended* that the act *is an absolute judgment of a court of competent jurisdiction and ultimate authority;* and then he says, the question arises whether *such an effect* can be given to the act without a violation of the principles of our constitution?" And he concludes that if this question must be answered in the negative, that is, if the act of 1814 be unconstitutional,—the only effectual mode of preventing an unjust application of it, is, to repeal it. With great deference this course seems to be quite a *non sequitur*. If the act be so clearly unconstitutional, there is no

danger whatever of its being unjustly applied by the courts. And the very ground on which he thus recommends the repeal of the act, involves the necessity of this Legislature deciding that it was unconstitutional, and ought not therefore to be applied to the case for which it was intended; that is, for the Legislature to assume the functions of a court. How this is to be reconciled with the declaration at p. 33 of the same report, already quoted, that the Legislature has no right "to determine or consider" the question whether the act of 1814 was unconstitutional, must be left for others to determine. But the object of these remarks is not so much to exhibit what are supposed to be the contradictions of Mr. Clark's report, as to show that Mr. Clark himself cannot urge the repeal of the act of 1814 without calling upon the Legislature to act judicially.

This part of the subject ought not to be dismissed without a comment upon the extraordinary assertion above quoted from p. 27, that the remonstrants and their counsel contend that the effect to be attributed to the act of 1814, is that of an absolute judgment of a *court* of competent jurisdiction and ultimate authority. In no one of the published papers is any such principle contended for, and the gentlemen who attended before the committee absolutely deny that they ever advanced such an idea.* The argument was, and has been throughout, and is still, that it was competent to the Legislature, in its legislative capacity, *with the consent of the other party to the compact*, so to amend it, as to remove doubts, and prevent difficulties growing out of a change in the state of things. Any further exposition of this argument is postponed until we come to consider that subject distinctly, in a subsequent part of these remarks.

Dissatisfied, apparently, with the ground thus assumed, that the act was unconstitutional, and therefore should be repealed—a ground, as already stated which he repudiates in another part of his report, Mr. Clark proceeds to state in a formal manner, somewhat imposing, the grounds on which as he says *the committee*, but in fact himself only, recommends the repeal of the act of 1814. The first reason given at p. 12, 13, &c., is that the consent of the Legislature to the act of 1814, was induced by a misrepresentation of material facts; that the Legislature was misled—that both the fact and the law of the case

* It was urged by one of them who last addressed the committee, that whether the law of 1814 was or was not unconstitutional, was a question of law proper for the decision of the judicial department of the government; and he thought it strange that the Legislature should now be called upon to make this judicial decision by those who complained of the act of 1814, upon the ground that it was a judicial act which the Legislature ought not to have performed.

were misunderstood in consequence of the improper manner in which they were presented.

This is a very grave accusation, and ought to be sustained by proofs the most incontrovertible.

The misrepresentation—the deception, consists, according to Mr. Clark's report, in the applicants for the act of 1814, omitting to refer in terms and distinctly to the colonial act of 1704, as the charter, and the only subsisting charter of Trinity church; or as stated at p. 16, that the act of 1704 was "*virtually suppressed*," that it was not referred to in the petition of Trinity church, nor in the pamphlets of Bishop Hobart or Col. Troup, except that it was mentioned in a note, in the latter; and that the Legislature were induced to suppose that it had been repealed, and that the charter of 1697 was operative until the act of 1784.

Each of those positions will be briefly examined in its order.

1st. As to the fact, what representations were made, and what evidence is there that the Legislature knew of the colonial act of 1704?

The petition of the corporation of Trinity church, embodied in their remonstrance to the present Legislature, and printed at p. 28 of a pamphlet containing the charter and other laws and proceedings relating to Trinity church, (and which will be herein referred to as *charter pamphlet*,) states the historical facts of its first incorporation, giving the date of 1697, and that it was the only parish church until some time after the revolution; it then recites the passage of the act of 1784, and quotes the provision it contains descriptive of the corporators. It then states that other Episcopal churches have been organized, and that some individuals belonging to such separate congregations have claimed a right to vote for wardens and vestrymen of Trinity church. It further represents that their corporate name has thus become inapplicable—it asks for an act altering the name, and to settle and obviate the questions that might arise in consequence of other Episcopal congregations in New-York being incorporated. The petition is brief, but explicit, and fairly and truly presents the evils for which a remedy was sought. It will be seen that there was a distinct and unequivocal reference to the act of 1784.

The law passed upon this petition in 1814 contains a preamble reciting the act of 1784 by its title in full; and also reciting the act of 10th March, 1788, enabling the corporation to take a different name, and which name, it recites they pray may be altered: and it makes alterations in both those acts.

Here then is indubitable evidence that the acts of 1784 and 1788

were before, and known to, the Legislature which passed the law of 1814.

Now the act of 1788 has a preamble, *reciting the colonial act of 27th June* 1704, and stating that it was repealed in 1784, but that the corporation had continued to use the name therein specified, and thereupon it enacts that the corporation may take and use a new name.

And the preamble to the act of 1784 recites the charter of 1697, *it recites and gives in full the title of the colonial act of* 1704, it declares that provisions in both the charter and the colonial act were inconsistent with the spirit and letter of the constitution of this state, and the act amends and alters both of them. Again, the preamble to the sixth section *recites in full the title of the colonial act of* 1704, with the date of its passage, and in the body of the same section *again repeats the title of that act*, and repeals it absolutely.

After this how can it be said that the colonial act of 1704 was unknown to the Legislature of 1814, that it was virtually suppressed? It was impossible for any member of the Legislature to vote upon the bill understandingly without recurring to the acts of 1784 and 1788, which it professed to amend and alter. And he could not look at those acts without seeing that the colonial act of 1704 was five times recited or distinctly referred to. If this be a mode of *suppressing* a fact, it would be desirable to know by what means it shall be made known.

But, says Mr. Clark, the Legislature was misled by having their attention drawn to the charter of 1697 by the pamphlets of Bishop Hobart and Col. Troup, and by the omission of those pamphlets to refer to the colonial act of 1704. It must have escaped Mr. C's observation that the pamphlet of Col. Troup was never before the Legislature at all, previous to the passage of the bill through the two houses. It was written and published *after* Chancellor Lansing had reported his objections to the bill, to the council of revision—for it contains those objections at large, and its object was to answer and remove them. If, therefore, it misled the Legislature in the passage of the bill, it must have been by some singular *ex post facto* operation of which there is probably no other instance on record.

As to the pamphlet attributed to Bishop Hobart, an examination of it will show that he discusses the question solely and exclusively as it arose upon the 3d section of the act of 1784, and upon the act of 1788. There is not one single idea or remark founded upon the charter of 1697, and indeed that charter is not mentioned, nor is there any allusion to it, except that in the commencement of the pamphlet, the *fact* is stated that

"since the year of our Lord 1697 a corporation in the city of New-York styled the corporation of Trinity church, have enjoyed a charter," &c. The idea of its being possible for Bishop Hobart to make an attempt to mislead the Legislature, would require the strongest proof to satisfy any one acquainted with the character of that estimable man; and when an inspection of his pamphlet shows how utterly destitute of foundation such an idea is, his friends and the friends of truth, justice and fair dealing, will lament that it should have been so inconsiderately avowed.

Before dismissing this point let us enquire how far the principle itself is tenable, that a law should be repealed, because the applicants for it took a wrong view of their case, presented facts and arguments conformable to that view, made no *mistatement* of any fact, perverted none, but omitted to bring into view a law on the public statute book, which they honestly supposed to be repealed, and which law must necessarily come under the examination of any one seeking to inform himself on the subject? Stripped of all exaggeration and amplification, this is really the sum and substance of Mr. Clark's complaint, assuming the correctness of all his representations on the subject. And the mere statement of the case, would seem to be sufficient, without further answer.

The analogy which Mr. Clark institutes at p. 23 between acts of the Legislature and private contracts being avoided by misrepresentation or concealment of material facts, is unfortunate for his position. As to misrepresentation of any *fact*, it is out of the question; it is not pretended that there was any; the only allegation is that there was a concealment of a law. Chancellor Kent in his 39th lecture, thus states the principle: "If there be an intentional concealment or suppression of material facts in the making of a contract, in cases in which *both parties* have not equal access to the means of information, it will be deemed unfair dealing and will vitiate and avoid the contract." "As a general rule, each party is bound to communicate to the other his knowledge of material facts, *provided* he knows the other to be ignorant of them, and they be not open and marked, or equally within the reach of his observation." Even this rule, the learned chancellor in a note admits to be too broad, and should be qualified so as to require that the party in possession of facts, must be *under some special obligation*, by confidence reposed, or otherwise, to communicate them truly and fairly. But take the rule in its broadest sense, and it will be seen how decisive it is against the position of Mr. Clark. For no one will pretend that the Legislature "had not equal access to the means of information," with the applicants, or that a

printed and published statute "was not equally within the reach" of the Legislature as it was of every citizen.

There are some collateral matters under this head, which it may be well to notice, although they have a slight bearing, if any, upon the point.

At p. 14, it is remarked, that "it is evident from the report made by the Attorney-General to the Assembly, that his opinion ws founded solely on the charter of 1697 and on the acts of 1784 and 1788." The language of the Attorney-General is this: "that he has examined a printed copy of the charter granted in 1697 to the Rector, &c., *and the acts altering the said charter*, together with the bill, &c., and that he is of opinion that the passage of the said bill will not defeat or vary any existing vested rights under the said charter and *acts*." The plain inference from this language, strengthened by the reflection that no honest attorney-general would give an opinion upon any subject, without examining *all* the laws bearing on it, is that Mr. VAN VECHTEN looked into the colonial act of 1704, as well as the acts of 1784 and 1788.

It must excite some surprise to witness these labored efforts to show that the highly respectable applicants for the law of 1814 made a misrepresentation, by a very foolish and necessarily futile attempt to conceal a public law,—that the Attorney-General neglected the duty of investigating the matter referred to him, by omitting to look for or consider a law having connection with that matter, and to stultify the whole Legislature by the supposition that they were not only ignorant of a law now said to be so material, but that they were hoodwinked and prevented from looking at it, by the omission of the petitioners to quote it and spread it before them.

2. If the applicants presented their case to the Legislature of 1813, under the belief that the colonial act of 1704 was not in existence,—that it had been repealed and had no influence upon the existing rights of the corporation, and if the Legislature acted under the same impression,—they were correct in law and in fact; and the representation was true, and the arguments, if any, founded upon it, were just and sound; in other words, assuming all that is alleged by Mr. Clark, to have been represented to the Legislature, there was no misrepresentation—no deception. Aware that the settlement of this question of fact must dispose of the first reason given by him for the repeal of the act of 1814, Mr. Clark labors with great ingenuity to establish the position that the colonial act of 1704 was not wholly repealed by the act of 1784. Let us take his own statement of the law: "The 6th section of that law" (of 1784,) he says, at p. 84, "*enumerates* the colonial act of 1704 in the list of those

that it *expressly repeals*, and this repeal, looking merely at the words there used, is *absolute* and *total.*" One would suppose that after such an admission, the question would be at rest. But the report under consideration is remarkable for the alacrity with which the most obstinate facts and the clearest provisions of law, are combatted and wrestled with. In this instance, it is said that this absolute and total repeal is to be restrained by what is assumed to be the manifest intention of the Legislature to repeal only such parts as were inconsistent with the provisions of the constitution; and as *some* of the provisions of the act of 1704 were not of that character, a court of law would hold that they were not included in that repeal. If courts of law adhere to what they have already said, they will hold a very different language. The fundamental maxim quoted by Chancellor Kent in his 20th lecture, seems peculiarly adapted to this case: *Quoties in verbis nulla est ambiguitas, ibi nulla expositio contra verba expressa, fienda est. Co. Litt.* 147. *Wing.* 24; thus translated in Branch's Principia: *When in the words there is no ambiguity, no exposition contrary to the words is to be made.* The judges said in *Edrick's* case, (5 *Rep.* 118, *b*,) "that they ought not to make any construction against the express letter of the statute; for nothing can so express the meaning of the makers of the act, as their own direct words." In 1 *Term Rep.* 51, Justice Ashurst says, "it is safer to adopt what the Legislature have actually said, than to suppose what they meant to say." These authorities might be multiplied almost indefinitely to show that interpretation according to a supposed intent, is not to be indulged against the plain words of a statute, and that it is only when the words are in themselves ambiguous, or where they would produce manifest injustice, or be absurd, that it is allowable to examine the intent.

A further reason given by Mr. Clark for denying that the colonial act of 1704 was repealed by the act of 1784, is that the latter act would thereby be rendered contradictory in its various provisions. The first section, after repealing certain parts of the charter of 1697, and of the colonial act of 1704, declares that "nothing in this law shall be in any wise construed to annul, injure, repeal or make void the said charter or the said law, where the same are not inconsistent with the constitution of this State." And yet, it is admitted by Mr. Clark that in a subsequent section, the 6th, the colonial act of 1704 is repealed by words that are "absolute and total," and that the repeal is "entire and absolute in its terms."* To prevent this manifest contradiction, which however

* If it were at all necessary to account for this contradiction in the act of 1784, it might be done by reference to the Assembly Journals of that year, p. 47, where it appears that the bill was amended in committee of the whole of that house; and by re-

is beyond the power of human ingenuity, he would restrict the "absolute terms," and make that a "*partial*" repeal which he admits to be *entire.* But a contradiction in a statute is a much less evil, than a defiance of the expressed, explicit and undenied will of the Legislature; and the rule in such cases has been settled for centuries, and adhered to without ever being questioned by any judicial decision. That rule was given in the case of the *Attorney-General* vs. *The Governor and Company of Chelsea Water-works*, reported in Fitzgibbon, p. 195; it is that a proviso directly repugnant to the body or provision of the act, shall stand, and be held to be a repeal of the preceding enactment, by analogy to the well known rule of construction applicable to testamentary instruments—that a later clause, if inconsistent with a former one, expresses the last intention, and revokes the preceding expressions. The rule as quoted from Fitzgibbon is given in Bacon's Abridgement, title *Statute*, and in 2 Dwarris Stat. 675, as the undoubted law. In the case of *the King* vs. the *Justices* of *Middlesex*, 2 Barn. and Ad. 818, Chief Justice, Lord Tenterden quoted and referred to the same decision in Fitzgibbon as the existing law, and he applied the principle that the latest enactment *speaks the last intention* of the makers, to the case before the court, where two contradictory acts were passed in the same session of parliament, to come into operation on the same day; and the court accordingly held that "the act which last received the royal assent must have the effect of repealing the other."

The same principle was again recognized and applied by the English court of common pleas, as late as 1835, in the case of Paget, and another *vs.* Foley, reported in 2 Bingham's New Cases, p. 679. Hence it will be seen that courts do not regard contradictions in the same statute, or between different statutes, as any reason for disregarding the plain words of an act. They have regarded consistency in acts as much less important than the *certainty* arising from a firm and well settled rule.

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ference to p. 117, where it appears that the bill had also received amendments in the Senate. We have no direct evidence of the nature of those amendments, but there are strong reasons which would occupy too much space here, for believing that the 6th section was added in the Senate, without adverting to the incongruity of a total repeal of an act which in a previous section had been repealed in part.

It is worthy of note that *three* of the acts repealed by the 6th section of the act so often quoted, chap. 33, which was passed 17th April, 1784, were also repealed by their titles in full, by the act chap. 38, which was passed on the 20th of April 1784, and that another act, *a part* of which was repealed by the above chap. 33 was wholly repealed by chap. 38. These acts were pending at the same time, as appears by the Journal. Thus showing that it was not deemed extraordinary to repeal wholly an act that was already partially repealed, or to repeat the repeal of other acts.

It is not deemed necessary to add any thing to this authorative rule. It speaks for itself, and shows, it is believed, beyond the reach of dispute, that the colonial act of 1704 was repealed absolutely, by the act of 1784, notwithstanding the declaration in a previous part of the same statute. Still, it may be proper to refer to the act of 1788, which recites explicity that the colonial act of 1704 was repealed by the law of 1784. As the almost contemporary opinion of a whole Legislature, it is entitled to at least as much respect as that of a single Senator, given sixty years afterwards.

Of course if any representation was made to the Legislature of 1813, that the colonial act of 1704 was repealed—such representation was true, and any inferences which were drawn from the fact were fully justified.

And thus, it would seem certain that the first reason assigned by Mr Clark for the repeal of the act of 1814, that it was procured under a misrepresentation, or a "suppression" of the colonial act of 1704, falls to the ground.

Mr. Clark contends (p. 7 and 8) that the charter of Trinity church, whether it consisted of the letters patent issued in 1697, or of the colonial act of 1704, became extinct by the revolution, and that the act of 1784 was necessary "to reanimate a lifeless corporation." The point has so little practical bearing on the questions at issue, as scarcely to justify an extended discussion, and yet the position is deemed so unsound that it ought not to pass without comment. The Supreme Court of this State and that of the United States, have by a series of decisions established beyond all controversy, that the division of an empire does not in any manner impair or affect private or corporate rights; that our revolution left the corporations created under British authority in full vigor and possessed of all the franchises which could be enjoyed consistently with our forms of government. *Terret* vs. *Tayler*, 9 Cranch 43, 50, was a decision to that effect, relating particularly to Episcopal churches in Virginia; and *the Society for propagating the gospel* vs. *New Haven*, in 8 Wheaton 481, as well as *Dartmouth College* vs. *Woodward*, 4 Wheaton, 706, were repetitions of the same doctrine applied to other corporations. See also 1 *John. Cases*, 29, 32; 3d *do.* 109. The idea broached by Mr. Clark, that it was a *condition* of the charter of Trinity Church that the corporators should remain in the communion of the church of England as established and *governed* by the laws of England, is believed to be a mere assumption without any foundation other than a vivid fancy. It might be said with far greater plausibility, that the *political* charters of the cities of New-York and Albany, were subject to the condition of being under the goverоment of Great Britain.

Trinity Church was a religious corporation; the religious denomination of its corporators was *described*, not prescribed, as being in communion of the church of England as by law established. This was a communion of faith, doctrine and worship, exclusively religious, and without any necessary connexion with the civil government. In the preface to the Book of Common Prayer of the American Episcopal church, after speaking of the alterations that had been made, which it says will appear, upon a comparison with the book of Common Prayer of the church of England, proceeds thus: "In which it will also appear that this church is far from intending to depart from the church of England in any essential point of doctrine, discipline or worship; or further than local circumstances require." This communion may and does exist between citizens and subjects of different countries, without the least reference to their respective civil governments; as in the case of the Friends or Quakers in England and America; Presbyterians in Scotland and in our country; Methodists in the two countries, &c., &c.—and it may exist even when the respective nations are at war. The connexion of the Episcopal church in England with the civil government was a mere incident, in no way necessary to the religious character or communion of the church, as is evident from the fact that in Scotland the Episcopal is not the established church, and yet its members are in communion with the church of England, and the latter are in communion with the Scottish church. The same relations exist between the Episcopal church in America and that in England; our ministers preach in their churches; theirs officiate in ours; the members of both reciprocally partake of the communion in the churches of both nations—and there never has been an interruption of that communion with the church of England, by the corporators of Trinity church from 1697 to this day. The object of Mr. Clark in the remarks which have just been quoted, was to exhibit the necessity of the act of 1784, "to reanimate, as he terms it, a lifeless corporation." The propriety of such an act and the necessity of some of its provisions are admitted, and it was certainly desirable, considering the circumstances in which the corporation had been placed by the war of the revolution and the occupation of the city by British troops, that the now independent State should, by a legislative act, remove all doubts, settle conflicting claims, and enable Trinity Church to execute its high mission. The act of 1784 was passed for this purpose. It does not contain any terms of incorporation, but it attains the object of reviving that which had been in abeyance, and of imparting to it new vigor, by appointing of its own authority a set of wardens and vestrymen, (sect. 4,) by declaring who should thereafter be corporators, (sect.

3,) and by confirming its original charter after amending and modifying it to the altered circumstances. (Sec. 1 and 2.) This revival, recognition and establishment of the charter of 1697 was effected by the first section of the act, which, after reciting that charter and the colonial act of 1704, provides that "nothing in this law, and no non-user or mis-user, &c. shall be construed to annul, injure, repeal, or make void *the said charter*, or the said law, &c. where the same are not inconsistent with the constitution of this State." Can language be more explicit in recognising the existence of the charter, and the validity of all its provisions, *excepting* those inconsistent with the constitution of this State?

How needless was the exception if the other provisions were invalid? Is this not precisely the case in which the sound and venerated maxim of the common law and of common sense applies with irresistible force? *Exceptio probat regulam de rebus non exceptis;* 11 *Co.*, 41. An exception proves the rule in things not excepted.

If then, the position of Mr. Clark at p. 5, be correct that it was *indispensable* to enable Trinity Church to continue a living and active corporation, that an act of the Legislature should be passed designating the corporators, and *defining the mode of their action;* and that this was the object of the act of 1784, it will be seen at once by an inspection of that act that it wholly fails in this object unless it be coupled with the charter of 1697, or the colonial law of 1704; for the act itself contains nothing *defining the mode of action of the corporators;* it confers no corporate powers in direct terms; it does not even fix the number of vestrymen, nor the time of their election, nor does it prescribe any of their duties or powers. But it couples itself with the charter of 1697, as already explained, corrects its defects and engrafts its own provisions upon it, and thus sets the machinery in motion. It is submitted that this is a fair, just and reasonable view of that act, and the only one which renders it what Mr. Clark says it should have been and was intended to be.

In a note to his report at p. 19, Mr. Clark says "if the charter of 1697 were superseded or abrogated by the subsequent act of the Assembly, (the colonial law of 1704,) express words were palpably necessary to create or restore its validity. The mere repeal of the colonial act would not have that effect." It is utterly denied that the colonial law of 1704 either suspended or abrogated the charter of 1697. On the contrary it is maintained that it did not create anew any corporation. It contains no expressions of that character usual in acts of incorporation; but in the very first section, recognized one as then existing, by enacting that "the rector and inhabitants of the said city of New-York in communion of the church of England, as by law established, and their successors, shall

be capable of suing, &c., by the name of *the rector and inhabitants of the city of New-York, in communion of the Church of England, as by law established.*" It thus describes a rector as already existing, which could not be without a lawful church, of which there could be a rector. In truth it describes the corporation created by the charter of 1697, which, it is therein declared, shall be a body corporate, by the name of "the rector and inhabitants of our said city of New-York, in communion of our Protestant Church of England, as now established by our laws." It is obvious that these were not intended as the very words of the name, as the phrases "*our* city of New-York," "*our* protestant church," and "established by *our* laws," could not be used with propriety in any instrument executed by the corporation, or in any contract with it by any other party than the crown, or in any act by a third party. In such cases, the word "our" must necessarily be omitted, and the word "the" substituted. With that change, which was obviously proper in an act of the colonial legislature, it will be seen that the name recited in the commencement of the first section of the colonial act of 1704, is identical with that by which the corporation is described in the charter, with the exception of the word "protestant," which was a pleonasm, as the church of England was notoriously protestant. It is supposed that if the same name had been used in a grant of property to the corporation, or in a contract with it, no one would have doubted that it was well and sufficiently described. "The name of a corporation frequently consists of several words, and the transposition, interpolation, omission or alteration of some of them, may make no essential difference in their sense." 1 *Kyd*, 227. In Angel and Ames on Corporations, p. 55, a variety of cases are collected, showing the settled law that any such omissions or alterations are regarded as immaterial. If to these considerations be added the established rule that the law does not favor repeals by implication, and that two statutes are to stand together if possible, (9 *Cowen*, 437,) it will be a very fair conclusion that the colonial act of 1704 did not supersede or abrogate the charter of 1697 any further than as their provisions were inconsistent, which was the case in a very few and not important particulars.

But Mr. Clark, assuming that the charter was already abrogated by the colonial act of 1704, says that "express words were palpably necessary to create or restore its validity. The mere repeal of the colonial act would not have that effect." To this it is replied that there is no doctrine better settled by a uniform current of decisions, and by the acknowledgment of all the elementary writers than this, which is thus given in the words of Blackstone: "If a statute that repeals another is itself repealed afterwards, the first statute is hereby revived without any formal words

for that purpose." 1 *Comm.* 90. If the rule had been drawn up expressly to negative Mr. Clark's position, it could not have been more direct. In 7 *Cowen*, 536, 537, the rule is recognized and applied; and probably hundreds of cases might be cited where it has been adopted and enforced.

It may be expected in this connexion, that some remarks should be made upon the observations of Mr. Clark, at p. 5, 6, &c., intended to show that the colonial act of 1704 was regarded by the government and the corporation itself as the only law which governed the corporation previous to the act of 1784. So far as any practical results could follow from the admission, it might with perfect safety be admitted. For it has been shown, it is hoped satisfactorily, that the colonial act was repealed in 1784, and if the charter of 1697 had been overshadowed by or merged in it, it was revived and restored in full force by the same act of 1784. It therefore becomes quite immaterial to enquire how it was regarded during the time it was in operation. But the statements of Mr. Clark upon this point are deemed so erroneous, that a brief space may properly be devoted to their correction. It is said at p. 6, that the grant made in 1705 is made to the exact corporate name that the act of 1704 imposed, and that the preamble of the grant refers to this act as the *sole* origin of the corporate power of the corporation. This is believed to be an exaggeration of the language of the preamble. It was natural that the reference should be to the more recent charter, which had passed but a year previous, conferring full powers to take and hold real estate; which reference was sufficient for all the purposes of the recital, and it would have been mere surplussage to refer to the charter of 1697. Surely it is a strained inference to draw from the mere nam ing of one out of two, or out of a dozen, acts of incorporation, that the others were obsolete or extinct; and as to the name of the corporation, it has already been shown that it was sufficiently identical in the two instruments, to prevent any ambiguity.

It is said in the same page that the right of voting for wardens and vestrymen of Trinity Church was limited in its actual exercise to the *communicants* of the church. And then it is averred that this limitation is to be found *only* in the act of 1704. Now it is asserted with great confidence that the limitation of the electoral right, so far as it required the voters to be communicants was the same in the charter of 1697, and in the colonial act of 1704; and that at all events there was great reason for such a construction—which would of itself account for the practice, and be sufficient to preclude the inference attempted to be drawn from the fact.

In the charter of 1697, (p. 9, Charter Pamphlet,) the qualifications of voters is thus described, "by the majority of the inhabitants of the said parish *in communion as aforesaid*"—the communion thus referred to, is described in an antecedent part of the same clause as that of "our protestant church of England." Mr. Clark says, at p. 6, that "according to the well known doctrines of that church, its communion embraces all its members; in other words all belong to the communion of the church who have been baptized or confirmed therein, and have not explicitly renounced its doctrines." This statement is far from being correct. By the doctrines of that church, all who have been baptised in it are members of the church; but it is not essential to membership that they should be communicants. Members, not communicants, are not described in any of its offices or by its accredited writers, as being *in communion* with it. The term "communion" in a religious sense, is peculiar to the episcopal church, and is not used in the same sense in the written religious devotions or services of any other denomination. Its prayer book denominates as the "holy communion" that sacrament which other churches call "the Lord's supper."

This word "communion" may be used in various senses: that which is intended by its use in the charter and in the colonial act, is the one very accurately given by Dr. Webster, "the act of communicating the sacrament of the eucharist; the celebration of the Lord's supper." This will appear from an examination of different parts of the colonial act of 1704. The 3d section of that act, (p. 18, Charter Pamphlet,) provides that the right of presentation to the rectorship, shall belong "to the church wardens and vestrymen of the said church, annually elected or to be elected by the inhabitants aforesaid, *in communion as aforesaid.*" The 5th section declares that the rector and inhabitants *in communion* as aforesaid, may have a common seal. The 6th section enacts "that it shall and may be lawful for the *inhabitants aforesaid*, (as yet described only as being *in communion*) to assemble and meet together, &c., and choose wardens and vestrymen, communicants of the said church, by the majority of the voice of *the said communicants so met*, and not otherwise." Here the word "communicants" is for the first time introduced, and is applied to *inhabitants in communion* assembled and met together. A subsequent part of the same 6th section provides as follows: "and in case the church wardens or vestrymen, or any of them, happen to die within the year, it shall be lawful for the inhabitants aforesaid *in communion* as aforesaid, at any time upon such emergency to meet at the said church, upon notice given by the rector to elect and choose others so qualified as aforesaid, in their room," &c. It will scarcely be contended by any one, that the act intended to prescribe a

particular qualification for electors in the choice of vestrymen at the *annual* election, and a different one for the choice of the same officers at a *special election* to supply vacancies. A view of all these sections would induce a very satisfactory conclusion that the same description of persons were intended, whether described as "communicants" or as being "in communion" with the church of England. The same expression in the charter of 1697, being "in communion" doubtless referred to the same description of persons. The view which Col. Troup takes of this question in his pamphlet, p. 31, 32, is evidence at least of the construction of intelligent men of that day. "The language of the charter and law, (colonial law of 1704,) is no less intelligible than its meaning is clear, and the mind that could doubt whether communicants alone are entitled to vote, must have been incurably diseased with skepticism."

Mr. Clark has himself furnished the means of presenting a very satisfactory argument why the Legislature should not interpose to repeal the act of 1814, even if it were founded upon misrepresentation and suppression of fact. He refers, at p. 23, 24, to the provisions of the Revised Statutes, authorizing a *scire facias* to be issued against any corporation for the purpose of vacating and annulling any act creating, &c., such corporation, "on the ground that the same was passed upon some fraudulent suggestion or concealment made by the persons incorporated by such act, or made with their consent or knowledge." (*2d Rev. Stat., p.* 479, § 13, *2d edition.*) This section is doubtless, merely in affirmance of the common law, by which a *scire facias* may issue out of Chancery to repeal any patent. *Comyn's Dig. Patent, F*, 6. At all events the power of the Court of Chancery over the subject cannot be denied. *5 Cruise's Dig.*, 53, 55. In one of the modes stated, either by *scire facias* or by bill in chancery, the question of misrepresentation, of suppression of facts, can be tried if the Legislature desire it, and the consequences be visited upon those by whose instrumentality it was produced.

If then, the memorialists are convinced by Mr. Clark's remarks, of the evidence of such an extraordinary fact, that the Legislature of 1813 were by some species of mesmerism, or other unaccountable influence, kept in profound ignorance of a law on the printed statute book, referred to in the act which they were amending—a fact which, it is presumed, the memorialists had not themselves discovered when they prepared and presented their petitions for the repeal of the act of 1814, (for those petitions contain no allusion whatever to it;) if they are satisfied of this fact, and believe that it ought to vitiate the legislation which was predicated on such profound ignorance and consummate folly, let them ask

the Legislature to authorize legal proceedings to ascertain it. It is believed that they will meet with no opposition from the corporation of Trinity Church or their friends.

II. The second reason given by Mr. Clark for a repeal of the act of 1814, (p. 12, 24, &c.,) is that it was the exercise of *a judicial* power, unwarranted and dangerous. He says, "it is *admitted* that if it altered the existing rights of the corporators, it was a plain violation of the Constitution of the United States," for which he refers in a *note* to the preface to the re-print of remarks on Trinity Church bill, by Col. Troup. Now that preface has been examined again and again, with the utmost care, and no such admission, nor any approaching it, can be found. Judge Troup had contended in his pamphlet that it was competent to the Legislature to alter the elective franchise in corporations without adverting to the distinction between public corporations, employed in the administration of the government, and private eleemosynary institutions. It was to correct this omission that the preface in question called attention to this distinction, as established in cases decided since the appearance of the pamphlet, and as prohibiting the intervention of the Legislature in relation to private corporations *without their consent.* The only question discussed was the right of the Legislature to interfere *against the will of the corporation*, for that is the only case to which the constitutional prohibition applies. If the contract be modified by the consent of the contracting parties, the obligation is not impaired—the obligation no longer remains, it has been removed by the parties. This is a principle which seems to be kept entirely out of sight in Mr. Clark's report. He no where notices the all-important fact that the act of 1814 was passed upon the application of Trinity Church after full notice, and that the law was assented to by them. Here, then, were the two parties to the original compact—the Legislature representing the sovereign power of the State, and the corporation, whose rights were to be effected, concurring in an act modifying that compact. Although this view was most distinctly presented in a pamphlet, to which Mr. Clark has referred at p. 18; yet, has he strangely overlooked it, and has discussed the whole question as if the act of 1814 had been passed, under the same circumstances as that of the Legislature of New-Hampshire in relation to Dartmouth College, against the will and consent of the corporation.

The corporation of Trinity Church represented to the Legislature that in the progress of events, a new state of things had arisen for which the existing compact between the government and the corporation had not provided, or that the provision, if any, was imperfect, and gave occasion to doubts and controversies. That state of things was, "that distinct

corporations had been formed, each having its own peculiar endowments and places of worship, with rectors and other officers of their own choice, totally independent of any control or interference of your petitioners;" and further, "that individuals belonging to such separate congregations, have pretended to claim" the right of voting in the elections and regulating the affairs of Trinity Church. They therefore pray for an act "to alter the name of this corporation, and also to obviate and settle *the questions that might arise in consequence of incorporating other Episcopal congregations in the city of New-York.*" Let it be observed that the petition asked for no law that could affect any other Episcopalians than those who belonged to such separate corporations, and the question and the only question upon that point, on which legislative interposition was asked, related to the individuals *belonging* to the other corporations. And such as will be shown presently, was the only effect of the law of 1814, and that it left other Episcopalians precisely where they were before the passage of the act.

Now, with what propriety can it be said that an act passed for such a purpose, to obviate and settle questions arising out of an imperfect previous act of the Legislature, was not legislative and was judicial? It was an amendment of a legislative act in particulars, which subsequent circumstances had rendered ineffectual. It is the province of all sound legislation to protect citizens in the free and undisturbed enjoyment of their rights whether natural or acquired. There was an evil threatening the peace and prosperity of a respectable body of citizens having corporate rights. That body, by its legitimate representatives, proposed a modification of the compact to the other contracting party, which was assented to and adopted. Is this the manner in which courts of justice proceed?

The very act of 1784, which it was asked to amend, had been passed in the same way. Can it be said that that act was judicial?

An act to remove doubts respecting the charter rights of the ministers, elders and deacons of the Reformed Dutch Church of the city of New-York was passed in the same year, which confirmed elections and appointments, notwithstanding their want of conformity to the charter, and which abrogated an important power of assessing upon the members of the church, the expenses of maintaining its ministers and officers, and repairing it, &c.

Numerous acts of a similar character are found in the laws of almost every session since the organization of the government. Charters of every description, charitable, religious, banking, insurance, library, manufacturing—have been, from time to time, amended to explain or correct

ambiguities or errors; to enlarge, to modify, and to diminish the corporate powers in matters affecting the interests of stockholders; upon the application of the trustees, directors or other official representatives of such corporations. They more or less give construction to previous acts, and generally supply their deficiencies. Was the power thus exercised judicial, or was it legislative? A distinguishing feature of a judicial act is, that it declares what the law has been and is, while a legislative act operates prospectively and declares what the law shall be. The judicial act affects cases of the like nature which have already occurred and declares the law by which they are to be governed.

Of the same general character are the statutes to be found in our session laws so profusely, confirming official acts of justices and other officers, irregularly elected, or qualified, and acts confirming titles of heirs and widows or of purchasers from them.

In the cases of corporations, the contract is made between the government and the body corporate, in its corporate charter, and not with its individual members. They are not known individually; they are merged in the body politic, and are represented by its officers, and necessarily bound by their acts. The very principle of their organization is, that the majority control and regulate the body; and the officers chosen by the majority, are its agents.

In *the Bank of Augusta* vs. *Earle*, 13 Peters 587, Ch. J. Taney giving the opinion of the court, says, "Whenever a corporation makes a contract it is the contract of the legal entity; of the artificial being created by the charter; and not the contract of the individual members."

Mr. Willcock in his treatise on corporations, p. 202, says, "The cases which have been determined on the presumption that the right of election may be restricted by a new charter, are so numerous that the question seems to be no longer controvertible."

In the case of *The Lincoln and Ken. Bank* vs. *Richardson*, 1 Greenleaf's Rep. 79, it was held by the Supreme Court of Maine, that the stockholders of a bank are bound by every act which amounts to an acceptance of the terms of the charter, on the part of the directors.

Upon no other principle than this, that those representing a corporation by virtue of their election, may assent to modifications of the charter, in good faith, can any one justify the numerous laws to be found extending acts of incorporation, enlarging or diminishing the capitals originally authorized, and in a variety of ways affecting the interests of individual stockholders. To deny the principle, would be to sweep from the statute books a large portion of the laws they contain.

As acts of incorporation of private eleemosynary institutions, are admitted on all hands to be contracts between the government and the cor-

poration, they are subject to the provisions of the constitution of the United States, which forbids any State from impairing the obligation of contracts. The effect of this, is to create an entire dissimilarity between charters granted by the British parliament and those given by our State Legislatures, in respect to the power of repeal or modification. While the parliament by its constitution has such power, the King does not possess it, without the assent of the corporation. Says Justice Story in Dartmouth College *vs.* Woodward, 4 Wheaton, p. 675; "When a private eleemosynary corporation is thus created by the *charter of the crown* it is subject to no other control on the part of the crown, than what is expressly or implicitly reserved by the charter itself. Unless a power be reserved for this purpose, the crown can not by virtue of its prerogative, *without the consent of the corporation*, alter or amend the charter, or divest the corporation of any of its franchises, or add to them, or add or diminish the number of the trustees, or remove any of the members, or change or control the administration of the charity, or compel the corporation to receive a new charter. This is the uniform language of the authorities, and forms one of the most stubborn and well settled doctrines of the common law."

It is submitted that this is a full and accurate description of the limitations of the power of our State Legislatures under the constitution of the United States, and that whatever may be predicated of the power of the crown in reference to the corporations created by it, may be of the State Legislatures. Now, in the case of *the King* vs. *Miller*, in 6th Term Rep. 276, Lord Kenyon, giving the opinion of the King's bench says, "Where a corporation takes its rise from the King's charter, the King by granting and the corporation by accepting another charter, may alter it, because it is done with the consent of all the parties who are competent to consent to the alteration." This consent may be given by the corporators, or a majority of them, expressly by some formal act; or it may be presumed and inferred from repeated acts under the alterations, evincing their acquiesence and sanction. In the case of *The Bank of the U. S.* vs. *Danbridge*, 12 Wheaton, 70, 71, the judge delivering the opinion of the Supreme Court of the U. S., says: "In short we think the acts of artificial persons afford the same presumptions, as the acts of natural persons. Each affords presumptions from acts done, of what must have preceded them, as matters of right, or matters of duty." "So in relation to the question of the *acceptance of a particular charter* by an *existing corporation*, or by corporators already in the exercise of corporate functions, the acts of the corporate officers are admissible evidence from which the fact of acceptance may be inferred. It is not indipensable to

show a written instrument or vote of acceptance on the corporation books. It may be inferred from other facts, which demonstrate that it must have been accepted." In the present case, the acts not only of the corporate officers, but of the corporators, in acquiescing in the provisions of this act of 1814, and in a uniform course of electing wardens and vestrymen according to those provisions, for more than thirty years, afford the most satisfactory and conclusive evidence of the acceptance of that act.

In most cases it must be impracticable to obtain the previous concurrence of all the corporators, to any modification of a charter, and the consequence of requiring it, would be to prevent the most salutary amendments, beneficial to the corporators themselves. To avoid such consequences, the constant practice has been to amend and modify charters upon the application of the officers of the corporation, in the first instance; and these alterations are deemed to have been assented to by the whole body of corporators, unless objections by a majority of them, are made at the time, or within a reasonable period afterwards.

The Legislature has repeatedly acted upon this principle, in requiring the assent of the corporation under its corporate seal, to alterations in its charter, instead of requiring any expression from the individual corporators; thus recognizing the authority of the corporation by its officers, to give a valid and binding consent. Thus in 1829, after the passage of the act to create the safety fund, some thirty bank charters were renewed, and in all the acts of renewal the following clause is found: "The charter of the said corporation shall not be extended by virtue of this act unless the said corporation shall, on or before the fourth day of January next, cause to be filed with the comptroller of this State, a certificate under its corporate seal and signed by its president and cashier, setting forth that the said corporation assents to become subject to all the provisions of this act." Session Laws of 1829, p. 465.

The act of 1837, suspending certain provisions of law respecting banks, and containing important restrictions upon their powers, has a similar provision in sec. 8, that it should not take effect in relation to certain banks until they should signify their assent to its provisions, by an agreement under their corporate seals, to be filed with the Secretary of State.

Indeed, so far as the legislation of this State bears upon the question, there has been one uniform invariable course, of which numerous instances might be cited like those already given, and there is not a solitary case to be found, where the assent of individual corporators to an alteration of the charter, has been required. Surely such a legislative construction, not questioned by any and acquiesced in by all, is entitled to great respect and consideration.

In this country the power of a corporation to dissolve itself by the act of a majority, seems admitted by all judges who have spoken on the point; see the cases collected in Angel and Ames on corporations, p. 507. But in this State the question has been put to rest by a legislative act. The 3d article of title 4, chap. 8, part 3 of the Rev. Stat., (vol. 2, p. [382,] 468,) provides, that whenever the directors, trustees, or other officers who have the management of the concerns of any corporation, or a majority of them, shall for any reason deem it beneficial to the interests of the stockholders, that such corporation should be dissolved, they may apply to the Chancellor for that purpose, who is authorized on such application to dissolve it accordingly. This law was originally passed in 1817. It is not prospective, but in terms includes existing corporations. Thus the principle is most distinctly recognized that the directors and trustees of corporations may affect the rights and interests of stockholders by giving up their charter without their assent to the particular act, or without any other assent than what is implied from the nature of corporate organizations and from the election of directors. It is true the Legislature did not think proper to extend this particular law to library societies, to religious corporations, or to select schools or academies. But the act proceeds upon the assumption that the power exists in all corporations, and regulates its exercise. If it did not exist, the act could not confer it, especially in reference to corporations then in being. Indeed this power of dissolution by surrender seems admitted in all the cases which have occurred in this State. *Slee* vs. *Broom*, 19 *John.*, 456. *Briggs* vs. *Penniman*, 1 *Hopkins*, 300; 8 *Cowen*, 387.

An extraordinary remark occurs at p. 26 of Mr. Clark's report, which certainly must have been made without due reflection. It is, that the act of 1814 was passed "without any investigation of the facts, any examinations of the law, or any hearing of the parties." Now it appears from the extracts from the proceedings of the two houses, appended to the memorial, and to which Mr. Clark has referred in another part of his report, that a remonstrance against the bill was presented to the Senate on the 18th of March; that it was discussed in committee of the whole both in the Senate and Assembly; that it was referred to the Attorney-General for his opinion on the law of the case; that it was again debated in the Assembly, when a motion to reject it was negatived by a vote of 66 to 23. It would be difficult to furnish stronger evidence respecting any statute which has ever passed the Legislature, that the parties were heard, that the facts were investigated, (indeed, there was not a single fact in dispute,) and that the law had been fully and thoroughly examined.

III. The third reason given by Mr. Clark, as stated at p. 12, for recommending a repeal of the act of 1814, and as expanded at p. 29, 30, &c., is, that the terms of that act dispense with certain qualifications of the corporators, that were deemed essential to the character and purity of Trinity Church, and may change the location and character of the corporators.

The members of Trinity Church and other episcopalians, will probably be astonished to learn from Mr. Clark's report that the act of 1814 "abandoned *all* the *securities*" for preserving the religious character of Trinity Church.* One of these securities is said in the report of Mr. Clark, to have been found in the *name* given to the corporation by the act of 1788, of "the rector and inhabitants, &c., in communion of the protestant episcopal church in the State of New-York." A name would be but a slight and feeble security against a church abandoning episcopal doctrine and worship, when its members had renounced them. If there be such virtue in a name, the colonial act of 1704 must come under condemnation. For the charter of 1697 had called the corporation "the rector and inhabitants, &c., in communion of our protestant church of England, as now established by our laws;" but the colonial act suppressed the word "protestant," that all-important and emphatic word which has found such favor in Mr. Clark's report, and entirely omitted it in designating the corporation.

Another "security" for the character and purity of Trinity Church, Mr. C. thinks is found in the 3d section of the act of 1784, which describes the persons who shall be deemed corporators, as those "professing themselves members of the Episcopal church." This security, Mr. C. says (p. 29) is *forfeited* by its not being required in the act of 1814. Mr. Clark would not venture on the positive assertion that this qualification is *repealed* by the act of 1814, but his whole argument on this point is founded on that assumption. There is nothing in the act of 1814 at all inconsistent with the qualification in the act of 1784, requiring the corporators to profess themselves members of the Episcopal church. The well settled rules of construction (which will be more fully noticed here-

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* On this subject as well as in reference to the *charge* against the committee of the vestry, who procured the passage of the act of 1814, that they either through ignorance or mistake, omitted to inform the Legislature that the act of 1704 was yet (as Mr. Clark supposes,) a valid, existing law, it may be proper to copy from the printed remonstrance the names of the gentlemen who were members of it, viz: Richard Harison, David M. Clarkson, Thomas Barrow, Robert Troup, Jacob Le Roy, Peter Aug. Jay and Thos. Ludlow Ogden. Not a few of the memorialists themselves must be surprised to learn that however recreant to their duty the others might have been, Mr. JAY could have consented to accept a law that abandoned all the securities of Protestantism.

after) require that all statutes on the same subject shall be considered together, and full effect be given to each; and the application of them to this case would require that a person offering himself to vote under the act of 1814, should possess all the qualifications required by all the acts on the subject, except those which had been repealed.

The position heretofore advanced, is also maintained, that the phrase "forming part of the same religious corporation" contained in the act of 1814, in itself prescribes the condition that the persons offering to vote shall be corporators according to the laws then in force. It is insisted with entire confidence, that the expression "forming part of the same religious corporation" applies to the first antecedent in the same 2d section—"all male persons," and not to "the chapels belonging to the same"—on account of the manifest absurdity of saying that a *chapel* forms a part of *a corporation*. But it is unnecessary to spend time in the discussion of that question, because the position already established is sufficient—that the provision in question in the act of 1784 is not repealed by the act of 1814. It is to be hoped that this view will relieve Mr. Clark, and all others from their painful apprehensions arising from their supposition that Trinity Church is released from the obligation of being a protestant church. Upon the principle already stated, of considering all the charters and laws bearing upon the subject, and giving them full operation, from the charter of 1697 to the act of 1814, Trinity Church must not only remain a protestant church, but must continue an *episcopal* church, in communion with the protestant episcopal church in the State of New-York and in the United States; neither the corporation nor its members can renounce the authority of bishops or the canons or rubrics of the church—nor can they dispense with or mutilate the prayers and order of religious worship set forth in the book of Common Prayer. All the securities which ever existed to protect the corporation and its members from popery on the one hand and from the doctrines and forms of worship of other religious denominations on the other, are still maintained in their original vigor and strength.

It is hoped that it may be permitted, without disrespect to the senatorial character, to express deep regret that an official public document like the report of a member of a committee of one branch of the Legislature, should contain statements and intimations in relation to the differences on theological questions, known to exist in the episcopal church, exceedingly offensive to a portion of that denomination, and which as they have no bearing whatever on the legal or constitutional questions involved, are introduced without any necessity or excuse. Had the report been prepared by one of the heated zealots who have made themselves conspicuous for

their intolerance and arrogance—who assume the very infallibility which they deprecate, and seek to proscribe their brethren for an adherence to what they conscientiously believe to be the true and sound doctrines of their church in the days of its greatest purity—had the report been prepared by one, who in a whole life of religious controversy had evinced any thing but charity, it could not have contained more unjust, or more intolerant reflections. Our Constitution has wisely prohibited all discriminations on account of religious belief, and hitherto our Legislative assemblies have adhered to the spirit of this provision, and have scrupulously avoided all discussions of such topics as calculated only to excite intolerance, disorder and contention.

It is believed that there are very few instances in which legislative reports have been of a different character, previous to that under consideration. The same Senator did indeed indulge himself in allusions of a similar description in a report presented by him to the Senate in 1845, in relation to changing the name of a public school society.

Trinity Church has no concern with these contentions, and as her rights are in no way connected with them, they should not be made dependent on them. The corporation has taken and will take no part in them. Individual members will espouse such views as their consciences dictate, and whether they be right or wrong, the corporate authorities have neither right nor pretension to enquire. It is insisted that such discussions are improperly mingled with the matters before the Legislature. They divert attention from the true merits of the controversy, and substitute feeling and prejudice for judgment and discretion. Their introduction is therefore deprecated as improper in itself and unjust to the corporation—and to those who are assailed. The latter are entitled under our blessed constitution to "the free exercise and enjoyment of their religious profession and worship without discrimination," and without molestation from any source, whether they belong to either extreme of the opposing parties, or are between the two. When Trinity Church or any other corporation diverts the funds entrusted to its care, to uses and purposes variant from the intentions of the donors or the policy of the State, the judicial tribunals will be found armed with abundant powers to deprive the offending corporation of all control over those funds, and to declare its dissolution for any abuse of its franchises. It cannot be pretended that the repeal or the continuance of the act of 1814, would either prevent such abuse, or add to, or diminish, the powers of the courts to correct it. How then could the apprehension, real or affected, of such abuse, influence the action of the Legislature upon the memorials presented to it? Those memorials presented no such ground for legislative interposition.

And it may be supposed without questioning the astuteness of Mr. Clark, that those who prepared the memorials and the accompanying argument, were at least as well acquainted with the appropriate grounds on which their application was to be sustained, as he could be. They had no such apprehensions, or if they had, they considered them unfit to be presented to the consideration of a legislative body.

There is another omission in the act of 1814, which Mr. Clark's report presents as a reason for its repeal, and which he considers not quite so *alarming* in its possible consequences as that last mentioned, and this is stated at p. 31, to be the omission to re-enact in the description of the corporators, that they must be inhabitants of the city of New-York. The report says that this limitation is retained in the acts of 1784 and 1788, but is not found in the act of 1814. The answer already given covers this objection. All the statutes in relation to Trinity Church are to be considered and construed together, being in *pari materia*, and no provision in one is repealed, unless by express words, or by necessary implication in consequence of its repugnancy to a subsequent provision.* It might with equal propriety be said that the wardens and vestrymen had no authority to choose a rector, because no such provision is found in the act of 1814, or that no election could be had, because neither the number of wardens and vestrymen to be chosen, nor the time of the election, were provided, either in the act of 1784 or in that of 1814. These acts were supplements to those previously existing, and provided for the special cases for which they were intended.

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* These principles seem so entirely to have escaped Mr. Clark's recollection; and the whole of his third reason for the repeal of the act of 1814, being founded on the misapprehension that the provisions of the charter of 1697 and of the act of 1784, are not to be regarded in determining the qualifications of voters under the act of 1814, that it seems advisable to quote a few leading authorities on the subject. In his 20th lecture, Chancellor Kent says: "Several acts in *pari materia* and relating to the same subject, are to be taken together, and compared in the construction of them, because they are considered as having one object in view, and as acting upon one system; and the rule applies, though some of the statutes may have expired *or are not referred to* in the other acts."

In *McCartee* vs. *Orphan Asylum*, 9 Cowen, 437, it was held by the court for the Correction of Errors, that "Two statutes shall stand together and both have effect, if possible; for the law does not favor repeals by implication; and all acts in *pari materia* should be taken together, as if they were one law." 1 Black. Comm. 89, 90. "And an old statute gives place to a new one. But this is to be understood only when the latter statute is couched in negative terms, or where its matter is so clearly repugnant that it necessarily implies a negative." "But if both acts be merely affirmative, and the substance such that both may stand together, here the latter does not repeal the former, but they shall have a concurrent efficacy."

The act of 1814 was passed to obviate and settle doubts in relation to a particular qualification of persons who claimed to be corporators and electors, and it left all other qualifications as it found them, with the exception of dispensing with the requisite of having paid for the support of the church.

There is not a word to be found in it inconsistent with the qualifications that the voters should be inhabitants of the city of New-York, and that they should profess themselves members of the Protestant Episcopal Church. If these were qualifications before the act, they remain so still. The fundamental error of the report has been, that it considered the 2d section of the act of 1814 a repeal of all former provisions on the same subject; whereas, it is not negative but affirmative in its character, and specifies certain qualifications, which those claiming to vote, should possess. It dispenses with none that were previously required, except the single one before mentioned, of paying to the support of the church. It is submitted then, that Mr. Clark's third reason for the repeal wholly fails, because the fact on which it is founded does not exist.

The affirmative provision which it contains requiring voters to be members of the congregation of Trinity church or of one of its chapels, may be defended and justified upon general grounds without reference to any previous charter or law. The meaning of the phrase is sufficiently given in Mr. Clark's report, p. 17, which says, "it denotes all persons who usually assemble for public worship in the same church." Can it be supposed that any church of any denomination could be maintained, in which the trustees, vestrymen, rector, and other officers were to be chosen or appointed by any others than those who "usually assemble in it for public worship," and who form the body for whose use the society and all its incidents were created? Are clergymen in our churches to be called by persons who are not to hear them, and who are to take no part in the services of the sanctuary where they are to officiate? Are strangers, though belonging to the same general denomination, to select preachers for congregations to which they do not belong? Is it not necessarily implied from the very nature of any society or association, that those only are to control its affairs who belong to it? And shall a congregation of a christian church be the only exception? It is affirmed with entire confidence, that in the absence of any provision on the subject in any act of incorporation, common sense and common justice would prescribe as the very first and elementary qualification to a person's exercising any control in the affairs of any congregation, that he should belong to it, and be a member of it. And the act of 1814 therefore, very properly inserted a declaration to that effect, that the members of other

congregations might not presume to interfere with one to which they did not belong. And this was the sole and whole effect of this provision. It is not correct, as intimated at p. 27 of Mr. Clark's report, that "all that class of Episcopalians in the city of New-York who are not members of any congregation as such in the city," are excluded from voting by the act of 1814. They have the same right to qualify themselves to be voters which they had before that act; and if they are excluded from voting, it is because they do not choose to avail themselves of the right. It might with equal truth be affirmed that they were excluded by the act of 1784, which required them to hold pews or be communicants. Any qualification whatever that should be prescribed, would exclude them until they complied with it. They are excluded by the act of 1814 precisely as presbyterians, methodists, and members of other denominations are, and in no other way, namely: so long as they refuse to participate in the privileges offered them, by refusing to become members of the congregation. It is the result of their own choice—the law does not exclude them. If they are episcopalians, they have but to become members of the congregation of Trinity Church, "to worship usually" in that church or in one of its chapels, and they at once become corporators and voters upon complying with the other conditions prescribed by the several acts. But from episcopalians who do not belong to any corporation, no complaint is heard. The memorials to the Legislature, proceed wholly from those who belong to *other* incorporated episcopal churches, and are members of the congregations of those churches. These, and these only, ask that all the guaranties which secure to the members of the corporation of Trinity church, the government and control of their own affairs, should be swept away, and its elections thrown open to an indiscriminate multitude, belonging to other churches, or belonging to none, upon no other qualification than that they are inhabitants of New-York, and profess to belong to the Episcopal church. This is in truth the result which all their representations and arguments are calculated to produce.

It is time to hasten to a conclusion. Mr. Clark's report urges the repeal of the whole act of 1814 instead of the particular sections complained of by the memorialists. The third section, confirming grants made by the church, the report considers useless if such grants were originally valid; and if they were not valid, that then the Legislature had no right to confirm them. The best answer to this remark is furnished by the second section of the bill which Mr. Clark has reported, which forbids the corporation from disputing the validity of any of its grants *before* or since the passage of the act of 1814, by which it would have been bound under that act;

which is but a circumlocutive manner of declaring that the grants shall be valid ; thus re-enacting the identical provision he proposes to repeal. A stronger admission of the propriety of the third section of the act of 1814 could not be made. The fourth section of the act of 1814, stands upon the same ground, being only more particular in referring specially to the grants to St. George's Church. It would also be saved by the second section of Mr. Clark's bill. Would it not have been more simple and direct not to repeal those sections at all, than thus to repeal and then re-enact them ?

The 5th section of the act of 1814 authorizes an amicable separation of the congregation of any chapel of Trinity Church, by the consent of the congregation and the corporation, and provides that when such agreement is made the members of such congregation shall cease to be members of the corporation of Trinity Church, and may incorporate themselves. This section also, Mr. Clark proposes to repeal. He would not even permit persons voluntarily to renounce their connexion with Trinity Church. He would bind them perpetually to that corporation. He says, "*each* of these sections, (the 3d, 4th and 5th,) involves a plain exercise of judicial power, or such an alteration of the chartered rights of Trinity Church, as it was not within the competence of the Legislature to establish." It is not deemed necessary to waste a word on this idea of a prospective judicial power in authorizing parties to make future arrangements respecting the partition of their common property. And as to chartered rights, it has hitherto been supposed that when an act is authorized to be done, upon the consent of all persons interested, there could be no question raised respecting the violation of the rights of those parties. At p. 35 the report regards these sections as quite useless, and says, that the validity of the separations by mutual consent would not be affected by a repeal of them. But that is a small part of the question. Future separations will be as necessary hereafter as they have been heretofore ; and the law which allows them in a peaceable, orderly and regular manner, and defines with precision the consequences, is in itself valuable, and can not be repealed without mischievous results.

The 6th section of the act of 1814 is a general provision applicable to religious corporations in the cities of New-York, Albany and Schenectady, and intended to exempt them from a very unnecessary and vexatious burthen. By the 10th section of the general act for religious corporations (3d Rev. Stat. p. 210) the treasurer or trustees of churches in New-York, Albany or Schenectady, (and it is not required of churches in any other place,) are required once in every three years to exhibit an account of their estate to the chancellor or a judge of the supreme court or

of the county courts, and in case of omission to do so, the corporation is dissolved. Now, the 6th section of the act of 1814 provides that this account need not be rendered unless the church has acquired other lands subsequent to the rendering of an account. Mr. Clark has entirely misconceived the original act when he speaks of the religious societies having been required by it to make an annual report to the Legislature. There was no such provision. The judge to whom the account was delivered, if he found the amount of the estate owned by a church greater than that allowed by law, was to report the inventory to the Legislature. It is evident that the provision of the act of 1814 is just as effectual to secure a knowledge of the fact that any church in the above mentioned cities has exceeded its income, as the original law; and there can be no reason whatever for restoring that law. Still, if it is deemed necessary or proper to do so, it can easily be done by a separate act.

An unwillingness is felt to close these remarks without adverting to a singular omission in the report of Mr. Clark, to pay the least attention to the argument which was pressed before the committee by those who represented Trinity Church, and which has been reiterated on various occasions and in various forms, that the long acquiescence for more than thirty years in the provisions of the act of 1814 by those immediately and directly affected, is in itself a sufficient reason why the Legislature should not now interpose, and by an act of at least doubtful authority, throw open the flood-gates of contention and litigation. Why Mr. Clark has not thought proper to discuss this point, does not appear.

A brief recapitulation of the points presented in these remarks will be convenient and perhaps useful.

I. Mr. Clark repudiates and rejects the grounds presented by the memorialists for the repeal of the act of 1814, as wholly insufficient, because a repeal on those grounds would be a judicial act.

II. He nevertheless argues that the act was unconstitutional and should be repealed in order to remove an impediment to the legal assertion of the rights of the complainants; and in effect calls upon the Legislature to act judicially in determining whether those rights have been invaded.

III. He pays no attention to the fact that the act of 1814 was passed with the assent and on the application of the corporation through their legitimate representatives; and does not discriminate between the power of the Legislature to modify a compact with the consent of the other party, as was done in 1814, and its power to change and alter the compact thus modified, without the consent and against the remonstrance of the other contracting party.

IV. He omits all notice of the admitted fact, that all parties interested in the matter have acquiesced in the act of 1814 for more than thirty years.

V. He assumes grounds for recommending the repeal of that act which never occurred to the memorialists, and which are wholly unfounded in fact.

VI. The first reason assigned by him for the repeal, that the act of 1814 was procured by the suppression of a statute printed among the public laws, and by misrepresenting of that statute as being repealed, is inconsistent in itself, is contradicted by the facts, and could not be true.

VII. If any representations were made, and if the act of 1814 was passed on the belief, that the colonial act of 1704 was repealed by the act of 1784, they were perfectly true and accurate in all respects.

VIII. The second reason assigned by Mr. Clark for the repeal, that the act of 1814 was a judicial construction and determination of the rights of the corporators, is unsound. It was strictly legislative, partaking in no respect of the character of a judicial decision; and it was entirely within the competence of the Legislature, in order to correct imperfections and defects in former laws, which rendered them inapplicable to a new state of things that had arisen. Such acts, passed with the consent of the trustees or other officers representing the corporation, and acquiesced in by the body of the corporators, are coeval with our government, and a denial of the principle at this day would overturn hundreds of statutes, affect vitally most important rights and interests, and produce endless and intolerable confusion.

IX. The third reason given by Mr. Clark for the repeal is, that the act of 1814 "*dispenses with*" qualifications of corporators, essential to the preservation of the character and purity of Trinity Church, and may change the location and character of the corporators;—and that the change in the name of the corporation also exposes it to lose its distinctive religious character.

1. It is denied that a change of name can have any such effect, when the peculiar character of the corporation is indicated by the provisions of its charter; and it is also denied that a single qualification of corporators that existed before the act of 1814 is "dispensed with" by that act, except the single one of paying to the support of the church; but

2. On the contrary it is maintained upon the the clearest and best settled principles of law, that all the acts and charters in relation to Trinity Church form one body of laws upon the same subject, which are to have full effect and operation in every particular in which they have not been

repealed in express terms or by a subsequent repugnant provision. And as there has been no such repeal of the qualifications referred to, of being inhabitants of New-York and professing to be members of the episcopal church, they are still required ; and all the securities and guaranties of the religious character of Trinity Church and of the proper employment of its funds, are retained in full vigor. That the remedy for any perversion of its funds, is to be found in the courts of justice, and not in the repeal of an act which in no way affects the guards or remedies against such perversion.

STATE OF NEW-YORK.

No. 114.

IN ASSEMBLY,

March 30, 1847.

REPORT

Of the committee on the judiciary on sundry memorials of inhabitants of the city of New-York, for the repeal or modification of an act passed January 25, 1814, entitled "An act to alter the name of the corporation of Trinity church, and for other purposes."

The committee on the judiciary to which have been referred sundry memorials of inhabitants of the city of New-York, praying for the repeal or modification of an act of the Legislature, passed January 25, 1814, entitled "An act to alter the name of the corporation of Trinity church, and for other purposes," and to which also were referred remonstrances against the prayer of the said petitions by the corporation of Trinity church, and of sundry Episcopalians belonging to different churches in the city of New-York,

REPORT:

Your committee have examined the numerous documents which have been submitted to them by the respective parties, and have patiently heard the able arguments addressed to them by the counsel, who have represented the memorialists and the remonstrants. Some of your committee were prevented by other duties and engagements, from

hearing all those arguments, but they have nevertheless made themselves, as they believe, sufficiently acquainted with the subject by an examination of the publications of the parties, to enable them to arrive at a satisfactory conclusion.

An historical account of public and legislative acts, relating to this corporation, is necessary to a comprehension of the questions presented.

On the 6th of May, 1697, the Governor of the Colony of New-York granted, under the great seal of the Colony, a charter incorporating the Bishop of London and his successors, "together with all the inhabitants from time to time inhabiting, or to inhabit in our said city of New-York, and in communion of our aforesaid Protestant church of England" by the name of "The rector and inhabitants of our said city of New-York, in communion of our Protestant church of England, as now established by our laws." This charter constituted the city of New-York a parish, and it directed that two churchwardens and twenty vestrymen should be annually elected "by a majority of the votes of the inhabitants of said parish in communion as aforsaid."

The charter also endeavored to conform the parish government as nearly as possible to that of parishes in England, and among other things, authorized the vestry to assess upon the inhabitants of the parish, the expense of finishing the church, &c., and the salary of an assistant minister, subject to confirmation by two justices of the peace, and in like manner make rates for repairing the church and premises connected therewith.

On the 27th of June, 1704, the Colonial Legislature passed "An act for granting sundry privileges and powers to the rector and inhabitants of the city of New-York, of the communion of the church of England as by law established." Without the usual words of a new incorporation, this act vests corporate powers in the same persons to whom the charter had been previously granted, and (in the words of the memorialists) "by which all the material provisions of the original charter were substantially enacted as law," "with a slight and immaterial change in the name and style of the corporation."

It is contended on the part of the memorialists, that this act was passed in consequence of the charter being wholly void and inoperative. On the part of the remonstrants it is insisted that its main object

was to confirm the title of the corporation to lands which had been granted to it prior to the charter, and which it was not in the power of the Governor to confirm; and that other principal objects were, to vest the selection of a rector of the church in its own wardens and vestrymen, instead of the vestry chosen by all the inhabitants of the city, and to authorize the rector to receive the one hundred pounds raised for the support of a Protestant minister, which by a preceding colonial act was to be collected of the inhabitants of the city, and in respect to which great doubts might exist of the power of the Governor by his charter, to make such appropriation.

It may be proper to remark here, that although the charter of 1697 is not in terms referred to by the colonial act, yet it is difficult to read the latter without perceiving that it is, in its provisions, supplemental to some pre-existing grant of corporate power. It does not contain the usual words of a new and original corporation, but declares that "the rector and inhabitants in the said city of New-York, in communion, &c.," should possess the specified corporate rights; it provides for a vacancy by the death of "the present rector," and it confirms to the corporators, lands purchased by "their predecessors." The term "rector" in itself implies a church and parish or incorporation, for without these, there can be no such officer; and it is difficult to explain the term "predecessors" without the idea of a previous corporation.

But whether the charter was recognised by the colonial act or not, it would seem to have been superseded by it, so far as the provisions of the two instruments were repugnant or inconsistent.

In respect to the question which is presented by the memorialists, relating to the right of voting; it may be remarked here, that although some dispute has existed, yet the counsel who appeared before the committee in behalf of both parties, distinctly admitted that *communicants* only, were entitled to that privilege, either by the colonial act, or by the charter, and that on this point there was no difference between them.

The corporation of Trinity church continued under the law, or under the charter and the law, until the Independence of the Colonies was established by the Revolution. This event affected many provisions in the charter and act of 1704, which were incongruous with the new government and the spirit of our institutions. Soon after the peace

therefore, and on the 17th of April, 1784, the Legislature passed "an act for making such alterations in the charter of the corporation of Trinity church as to render it more conformable to the Constitution of this State." As the provisions of this act will be the subject of particular consideration when your committee come to consider the grounds on which the memorialists ask the interposition of the Legislature, they refrain, for the present, from a detailed statement of them.

It may be remarked, however, that this act left the name of the corporation unaltered, viz: "The rector and inhabitants of the city of New-York, in communion of the Church of England." In 1788, an act was therefore passed, which changed the name to "The rector and inhabitants of the city of New-York, in communion of the Protestant Episcopal church of the State of New-York." This act made no change in the rights of the corporators, nor in the powers of the corporation, but in its recital states that the colonial act of 1704 was repealed by the law already quoted, of 1784, but that the corporation had continued to use the name therein specified, and had prayed to be enabled to assume the new name given them by the act.

There does not appear to have been any further legislation upon the subject, until 1813, when a petition was presented from the corporation, stating the occurrence of circumstances which rendered further legislative provision necessary. These were, that since the act of 1784, the pew-holders of Trinity church and its chapels, and the regular communicants therein, have been the *only* persons admitted to vote at elections for churchwardens and vestrymen of the corporation; that owing to the growth of the city, numerous Episcopalians therein had formed distinct church corporations, having their own rectors and other officers, totally independent of the petitioners, and neither possessing nor claiming any right for themselves or their members to vote in the elections, or regulate the affairs of Trinity church; but that two or three individuals belonging to these new corporations, had, in March, 1812, claimed a right to vote in the elections for Trinity church, whose votes had been rejected by the petitioners, and no measures had been taken to establish the right so claimed; and they urged that it had become essential to the peace and harmony of the said church, that all doubts respecting the persons entitled to vote at the elections of Trinity church, which might exist or arise in consequence of the said separate corporations, should be finally obviated and settled. They represented also, that in

consequence of the formation of these new churches, the name of their corporation had become inappropriate and inapplicable, as it did not comprehend *all* the inhabitants of the city of New-York who professed to be of the Protestant Episcopal church. They therefore, prayed for an act to change their name, and to obviate and settle the questions that might arise in consequence of incorporating other Episcopal congregations in the city of New-York. The contents of this petition are given thus minutely, for the purpose of exhibiting how plainly and explicitly it presented to the Legislature of 1813, the very question which is now agitated by the memorialists; the right, namely, of the members of other Episcopal congregations in New-York to vote or interfere in the affairs of Trinity church, and solicited an act to settle that question.

That the grounds of that petition, and the objects stated, were perfectly understood at the time, by all persons concerned, and must have been understood by the Legislature, appears from the memorial of Thomas Farmer, chairman of a meeting of Episcopalians at Mechanics' Hall, dated March 3, 1813, which represents that "the *congregation* of Trinity church, (the members of which are but a small proportion of the Episcopal inhabitants of the said city,) have usurped all the privileges, and taken into their possession all the property of the corporation; thereby disfranchising in respect to the said charter, a great majority of the Episcopal inhabitants of the city;" "that the vestry of Trinity church which is a body elected by the members of that *congregation* solely, have appointed a deputation to proceed to Albany and to use their influence to obtain from the Legislature an act to confirm their unjust usurpations." The memorial prays, "that no law may be passed which will sanction the unjust proceedings of Trinity church, or that may affect the rights of the Episcopal inhabitants of the city, *who are not members of the congregation* of Trinity church, but who have equal claims with them to the privileges and benefits of the charter."

The single and distinct issue thus presented, of the right of those who were not members of the *congregation* of Trinity church to vote for its officers and regulate its affairs, came before the Legislature of 1813; the petition of the corporation being presented on the 17th of March, and the memorial or remonstrance on the 18th. On the 20th of March, the bill, in accordance with the prayer of the petition, was

considered and agreed to, with an amendment, in the committee of the whole of the Senate, and on the 25th of the same month it passed that body by a vote of 21 to 9. It was sent to the house of Assembly, and on the 30th of the same month it was referred to the Attorney-General, to report whether in his opinion the bill "would in any wise defeat or vary any existing vested rights under the charter granted May 6th, 1697, or any acts altering the said charter. On the 31st of March, the Attorney-General, Mr. Van Vechten, reported that he had examined a printed copy of the charter granted in 1697, and the acts altering the said charter, together with the bill referred to him, "and that he is of opinion that the passage of the said bill will not defeat or vary any existing vested rights under the said charter and acts." On the 2d of April, the Assembly considered the bill in committee of the whole, when a motion was made to reject it, upon which the votes were 23 in the affirmative and 66 in the negative, and on the same day the bill passed the house without any division. It was sent to the Council of Revision and by them referred to Chancellor Lansing, who reported objections, and on the 25th of January, 1814, the council proceeded to consider the same, and on the question of agreeing to the objections, the council was equally divided, Chancellor Lansing voting against them. And the bill not being returned within the time prescribed by the Constitution became a law.

This law went into operation; the corporation assumed the new name it gave; all public manifestations of difficulty in the church ceased; the opposition to its provisions was no more heard of, and all parties appear to have acquiesced quietly, if not cheerfully, in the disposition it had made of the subject of controversy. Things remained in this condition for thirty-two years, without a single movement being made by those Episcopalians who did not belong to the congregation of Trinity church to assert any claim to vote for its officers, which had been expressly denied and prohibited by this law. Elections of officers of the corporation were made exclusively by those who possessed the qualifications prescribed by that act, and no instance is adduced during this long period, of any Epicopalian not belonging to the congregation of Trinity church, ever having offered to vote at any one of its elections.

A memorial was presented to the Legislature in 1846, in behalf of those who were not members of the congregation of Trinity church, but were members of other incorporated Episcopal churches in the city of New-York, presenting the identical question which was disposed of by the Legislature of 1813, complaining of their exclusion from the right of voting for officers of Trinity church by the act of 1814, and asking a repeal or modification of that act. Against this memorial remonstrances were made by the corporation of Trinity church, and by Episcopalians of other churches in the city. These were referred to one of the standing committees of the Senate, a majority of which on the 9th of April 1846, reported against the prayer of the memorialists, and one of the committee submitted an elaborate report in its favor. No further action was had on the subject.

The memorials have been renewed the present year, and with the remonstrances of Trinity church and of Episcopalians belonging to other incorporated churches in the city, have been presented and referred to your committee.

It is not the purpose of your committee to discuss and decide upon the various positions which have been taken by those who have represented the parties before them. Many of these positions appear to your committee to have scarcely any bearing upon the real merits of the controversy, aud others are so entirely of a judicial character, that your committee consider any attempt to decide them, a palpable and direct violation of those fundamental principles which in our government separate the judicial from the legislative department.

The committee will proceed to state such of those positions as they deem important, that the House may judge of their character, and of the justness of the conclusions to which the committee have arrived.

Two principal grounds are assigned for the repeal or modification of the act of 1814, viz.:

First, that it was passed under misrepresentation and misapprehension.

Second, that it was unconstitutional, as it impaired the obligations of the contract entered into by a previous Legislature, with the corporators of Trinity church.

Under the *first* head, the misrepresentation is alleged to have been made in the petition of Trinity church in 1813, in stating that it was incorporated by the charter of the Governor in 1697, and had continued to be a body corporate by virtue of that charter; and in pamphlets published at or about the time of the application for the law, in which similar representations were made; and also that in the petition, and in those pamphlets, no reference was made to the colonial act of 1704. It is admitted, and indeed insisted upon by those making this objection, that the petitioners honestly believed the truth of what they said, but that they and the writers of the pamphlets referred to, were in a common error, and were wholly mistaken as to the source of the corporate powers and the rights of the corporators; that the Legislature participated in this misapprehension, and under its influence passed the law in question.

The improbability of such extraordinary and universal delusion is enhanced by the recollection that the Legislature was composed of some of the most distinguished men in the State, and was assisted by the investigations of such an Attorney-General as Abraham Van Vechten.

One alleged misrepresentation was, that the corporation had been created by the charter of the colonial Governor, and had continued a body corporate by virtue of that charter. It is conceded that there was such a charter in point of fact, but it is contended by the memorialists that it was void:

First, because the Governor's commission gave him no express authority to grant any charter of incorporation: and

Second, because the charter contained some provisions which could be enacted only by the legislative authority; those particularly, empowering the vestry to assess upon the inhabitants of the parish the expenses of finishing and repairing the church, &c.; and that as the charter was thus void in part, it was wholly void.

In reply, it is urged that the Governors of the colonies by virtue of and incident to their offices represented the sovereign, and possessed his powers so far as their exercise was necessary or proper in the condition of the colonies: that they received *instructions* from the crown, in addition to their commissions, which were retained by them, and of which no copies are preserved: that the colonial records con-

tain numerous charters granted by the Governors under the provincial seal, and not one originating directly from the crown; that this practice of the Governors was common in all the colonies, and was never disapproved by the government of England, or any of its departments; that these charters were repeatedly recognised by the State Legislature immediately after the revolution, and from that day until now have never been questioned; that the most severely contested cases have arisen upon them, particularly that of Dartmouth College, which have been carried through the State courts and those of the United States, and in which the most distinguished counsel have been engaged without a question or doubt being suggested from any quarter, of their validity; and that for a period of one hundred and fifty years, they have been received, held and acted upon by all the departments of government, in this and the other colonies and States as having equal force and authority with a charter direct from the crown.

In reply to the allegation that the Governor, in the charter of 1697 assumed legislative powers in authorising assessments to finish and repair the church, it is maintained, that conceding the illegality of those separate independent provisions, they did not taint or in any manner affect other clauses of the charter, according to the universal rule applicable to charters and patents as to every other grant or act; that they may be void in part and good in part. That the corporation and the charter creating it, were recognised by the colonial act of 1704, as hereinbefore particularly stated: that it was six times referred to and recognised as valid by the act of 1784, and that the petitioners were perfectly justified in asserting that their corporation was created by it, and was continued under it; that Thomas Farmer and the other remonstrants were equally warranted in regarding it as a valid act of incorporation, and the Legislature of 1813 did not act under any misapprehension of either law or fact, in treating it as such.

Another misrepresentation alleged by the remonstrants to have been made to the Legislature of 1813, is said by them, to consist in the suppression of the colonial act of 1704, little or no reference having been made in the petitions and papers presented to the Legislature, who were thus led to disregard its provisions in their

bearing upon the qualifications of corporators of the church. Various answers are given to this allegation; *first*, that it is a misapplication of words to talk of *suppressing* a printed statute contained in all the editions of the colonial acts, which were in the hands of every lawyer, and were accessible to any member of the Legislature, and that the amount of this charge is simply, *that it was not referred to*, as an existing and operative law in 1813; *second*, that it was sufficiently indicated by referring to the act of 1784, which repeatedly mentions it, and *third*, that being expressly repealed by the act of 1784, it did not in any manner affect the question then presented. It is contended on the other hand, that although the act of 1784 does in terms repeal the colonial act of 1704, yet that such was not the intention of the Legislature, and that by transposing the proviso of the first section of the act of 1784, from its present location, and adding it to the 6th section, the repeal may be qualified so as to apply only to such portions of the act of 1704, as are inconsistent with the Constitution.

Your committee do not feel called upon to discuss or decide these questions, and they confess their own conviction, that a plain statement of them is sufficient. But, they are wholly unable to comprehend the importance which seems to be attached to the charge of misrepresentation and suppression. The complaint of the memorialists, is, that the law of 1814, defining the qualifications of voters for officers of Trinity church, conformed to a construction given to the terms "inhabitants of the parish," in the charter of 1697, instead of the language "inhabitants of the city," contained in the colonial act of 1704. But, your committee are not at all satisfied that the Legislature which passed the act of 1814, intended to give a construction either to the charter or to the colonial act, but rather think that they confined themselves to an exposition of the act of 1784, and its application to the new state of things caused by the incorporation of other Episcopal churches in the city of New-York, which the preamble of the act distinctly states to be its object; and the pamphlets referred to as furnishing evidence that any particular construction of the charter influenced the Legislature, do not establish the fact. But admitting the truth of the allegation, can it be denied that it was perfectly competent to the Legislature, and entirely proper, to refer to all the charters, grants and acts bearing upon the subject, and particularly to that charter which had been recognised

by the acts of all parties, for the last preceding thirty years, and to which both petitioners and remonstrants referred as the original source of the title of the corporators?

The Legislature was called upon to settle the question, whether persons, who, since the act of 1784, had attached themselves to other Episcopal incorporated churches and congregations, and who were not members of the congregation of Trinity church, had, or should have, a right to vote for the officers of that church and to regulate its affairs? One enquiry would be, how had the matter been regulated by those laws and charters which had at any time prevailed, and been regarded by the corporators as authoritative? And can it be seriously urged, that such an enquiry and such a reference would so vitiate the law, as to require its repeal on such a ground? It is rather to be supposed that the reason put forth in the petition, and urged in the pamphlet, which was probably circulated among the members, influenced the Legislature. It was, that other Episcopal congregations had been incorporated in the city of New-York, "each having its own peculiar endowments and places of worship, with rectors and other officers of their own choice, totally independent of any control or interference of your petitioners," and that the members of these congregations could not be considered as members also of another corporation, from which they had seceded. At all events, your committee see in this some reason to induce the action of the Legislature of 1813, in resolving doubts which those persons who had raised them, neglected to have determined by the judicial tribunals.

There would appear to be as great an incompatibility in the members of one religious corporation acting at the same time as members of another incorporated church of the same denomination, which has a general representative assembly to regulate its affairs, as there would be in any citizen's voting in one county or town, for members of the Assembly, and at the same time voting in another town or county for representatives in the same body. It would appear to be unjust to others, and would defeat the purpose of separate organizations. Our courts have uniformly acted on the principle, that it was an inherent implication in all laws, that officers and persons could not act in relations that were incompatible with each other. Hence, a justice of the peace cannot be an overseer of the poor, as he audits the accounts of the overseers, (1 Burrows, 245, and other cases in 2 D. and E., 81, 777.) Our acts relating to

religious corporations have recognised this incompatibility, by enabling those *only* to incorporate themselves, as Episcopal congregations, who are not already incorporated; and, in this respect, have made a difference between them and other incorporations. Their members compose a religious community, which, from its nature, would appear to be separate from and independent of any other, in the same manner as States, counties and towns; and it would seem as impossible for a man to be at the same time an inhabitant and elector in two States, counties or towns, as in two religious communities. And wherever this inconsistency exists, the last that is accepted or taken, *ipso facto* vacates the former. (See the cases before cited.)

These are familiar general principles, which may be supposed to have been known to the Legislature of 1813, and they afford a much more satisfactory reason for what may very properly be considered a declaratory law as passed by them.

If an act of the Legislature could ever be repealed on the ground of misrepresentation and misapprehension, the evidence of both should be very clear and decisive. Your committee do not deem it necessary to decide that the representations made to the Legislature of 1813, were accurate in law and in fact, but they say that the evidence fails to satisfy them, that they were false in any particular; or that the Legislature were misled by them, or even acted upon those alleged to have been made. They are not prepared to say that the charter of 1697 was granted without any authority in the Governor, or that it was wholly void, on account of its containing some void and illegal provisions. They are far from being convinced that the colonial act of 1704, was not absolutely and wholly repealed by the positive words of the act of 1784; and as it is indispensable to the memorialists, to establish each of these positions affirmatively and clearly before the charge of misrepresentation can be sustained, the committee can not recommend a repeal of the act of 1814, upon this ground.

This point ought not to be dismissed, without some remark upon the general question of repealing an act relating to a corporation, on the ground of misrepresentation. The rule existing at the common law, and which is recognized by our statutes, that any charter may be vacated by regular proceedings in a court of justice, on the ground that it was passed upon some fraudulent suggestion, or concealment of

a material fact, makes a very proper distinction between such impositions, and the diversities of judgment which may prevail in different Legislatures, upon the true meaning of preceding statutes, or upon the nature and extent of powers that should be given to corporations or their members. It is a distinction founded upon the nature of the act, which is a compact between the government and the corporation, and therein differs from all other legislative acts. Contracts can not be avoided for errors of judgment or mistakes of law, and not even for misrepresentation or concealment of facts, when the means of knowledge are equally within the reach of both parties. It is not pretended in this case, and could not be, that the act of 1704 was not accessible to every member of the Legislature. But in truth the allegation on the part of the memorialists, amounts to this, that the petitioners and remonstrants, in 1813, and the Legislature, mistook the law of the case, and formed an erroneous judgment of the rights of the corporators. It seems to your committee, that it would be a departure from all the analogies of law, and from sound principles of legislation, to repeal a charter, or any act modifying a charter, upon such a ground, and would open a door for legislative discretion, that would effectually elude that great principle of our Constitution, which forbids the passage of any law impairing the obligation of a contract.

The remaining principal ground on which the repeal of the act of 1814 is solicited is, that it was contrary to the Constitution of the United States, inasmuch as it impaired the rights of corporators, given by the act of 1784. The title of this act professes to make "alterations in the charter of Trinity church;" the first section repeals certain parts of the charter, the second section authorizes the churchwardens and vestrymen to call and induct a rector, and the third describes the persons who shall be corporators of *that church;* they are, "all persons professing themselves members of the Episcopal church, who shall either hold, occupy or enjoy a pew or seat in the said church, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the holy sacrament of the Lord's supper, at least once in every year, being inhabitants of the city and county of New-York." The memorialists complain that these qualifications were altered by the second section of the act of 1814, which is as follows: "That all male persons of full age, who, for the space of one year preceding any election, shall have been members of the congregation of Trinity church aforesaid, or of any of the

chapels belonging to the same, and forming part of the same religious corporation, and who shall hold, occupy or enjoy a pew or seat in Trinity church, or in any of the said chapels, or have partaken of the holy communion therein, within the said year, and no other persons shall be entitled to vote at the annual elections for the churchwardens and vestrymen of the said corporation."

The points in which the memorialists allege their rights are infringed by the above section are these: *first*, that by the act of 1784, communicants in other Episcopal churches were corporators of Trinity church, whereas by the law of 1814, they are required to be communicants in Trinity church; *second*, that Episcopalians holding pews or seats in other Episcopal churches, are deprived of the right of voting, which they before possessed; and *third*, that a new qualification is requisite, that of having been members of the *congregation* of Trinity church. It will be perceived that these objections substantially unite in one, namely, that members of other incorporated Episcopal congregrations in the city are excluded from being voters for officers of Trinity church, or intermeddling with its affairs.

With respect to the first and second objections, it is maintained by those who remonstrate against the prayer of the petition, that the qualifications in the act of 1814, are identical with those in the law of 1784; that the expression in the last mentioned act, "and such others as shall, *in the said church*, partake, &c., are the same as the language in the act of 1814, "or have partaken of the holy communion therein," that is, in Trinity church; that the requirement of holding and occupying a pew or seat, in both laws, applies to Trinity church. This is denied by the memorialists, who contend that these requisites in the act of 1784, refer to communion and to seats or pews in *any* Episcopal church. Your committee are not convinced that such was the meaning of the act of 1784, the whole scope and object of which, as declared by its title, was to make alterations in the charter of Trinity church in particular, and to regulate the affairs of that church; and the more natural construction, would seem to them to refer the expressions, "in the said church," contained in the third section, to the same particular church which was designated by the same expressions in other parts of the same act.

In a professional opinion which the memorialists appear to have adopted by appending it to their petition, it is said, in reference to the

3d section of the act of 1784, "it must be confessed that this section is expressed in terms that are by no means free from ambiguity. It is doubtful whether the church to which the section refers, is the Protestant Episcopal church in general, or Trinity church alone." This admission relieves your committee from all difficulty on those points. They cannot recommend the repeal of a law as being unconstitutional, when it is admitted by those applying for the repeal, that its being of that character is doubtful.

The third objection, that the act of 1814 confines the election of officers of Trinity church to members of the congregation of that church, in exclusion of members of other churches, has been anticipated and somewhat considered. If the view already taken is correct, that the functions and powers of members of different religious communities of the same denomination are in their nature inconsistent and incompatible; that they cannot be exercised by the same persons at the same time consistently with the rights of others and with the legitimate objects of separate organizations, then this provision in the act of 1814 was merely declaratory of what was the existing law. To justify a succeeding Legislature in pronouncing an act of their predecessors void, and to repeal it on the ground of its being unconstitutional, the reasons should be at least as cogent as those which would induce a court of justice to render such a judgment. The Supreme Court of the United States has said, that "the presumption must always be in favor of the validity of laws, if the contrary is not clearly demonstrated," and also that "it is not on slight implication and vague conjecture, that the Legislature is to be pronounced to have transcended its powers, and its acts to be considered void. The opposition between the Constitution and the law should be such, that the judge feels a clear and strong conviction of their incompatibility with each other."

Applying these manifestly just principles to the point under consideration, your committee cannot say that it is clearly demonstrated that the act of 1814, in excluding from the privilege of voting for officers of Trinity church, the members of other incorporated churches, or in confining that right to the members of the congregation of Trinity church, has done any more than was already implied in the law of 1784, and in all acts of incorporation of religious societies. The rule that those who secede from any body or community, or who are in any

way separated from it, relinquish all rights and privileges as members of that community, has been established in so many cases, and is so consonant to reason and justice and the common understanding of mankind, that it has come to be a familiar and elementary maxim. It is applied to citizens and subjects abjuring their country, to inhabitants of counties or towns divided, and to members of all associations severing their connection. And your committee cannot recommend the repeal of a law on the ground of its being unconstitutional, because it recognizes and executes this rule.

The fact of an acquiescence for more than thirty years in the provision, which thus, as the memorialists allege, deprived them of existing rights, and disfranchised them as corporators, is relied upon by the remonstrants, as an unanswerable objection to the prayer of the petition. They insist that the same reasons of public policy which prescribe limitations to controversies in courts of justice between private parties, are strictly applicable to this case; and that those who have so long submitted to what they now allege to have been an invasion of their rights, while the means of redress were abundant and were open to them, cannot now be heard in the application which they make to the legislative power. The chief answers which have been made to this objection, are, that the limitations referred to are technical rules, applicable only to courts of justice, and not to legislative action; and that the mere omission to exercise a right is not a waiver of it. Viewing this as a mere private controversy between individuals, relating to personal privileges claimed by one set and denied by the other, which the ordinary courts of justice now are, and at all times have been entirely competent to determine, the committee are unable to perceive why it should not be subject to the same general rules for promoting peace and quiet, and terminating litigation, which would be applicable to it if agitated in its proper tribunal; at least they think such a principle a safe guide for legislation generally, and they see nothing in this case to exempt it from the general rule. There has been no impediment or obstruction to the regular and usual jurisdiction of the courts, and no reason has been assigned why resort has not been had to them in some of the various forms which would have afforded ample redress for any wrong.

The case does not present a mere omission to exercise an unquestioned right, but a submission to and acquiescence in, what is alleged

to have been a gross wrong. The doctrine of acquiescence is not and cannot be applied to any other case: the question cannot arise until some asserted right has been violated. In regard to corporate rights, the courts have fixed upon the term of twenty years during which they must be claimed or exercised, or be deemed waived. This is the longest term which by our laws is allowed to individuals to assert their rights in any case; and an exclusion of even a rightful claimant from the possession of property, or the enjoyment of any easement, privilege or franchise, during that term, without any proceeding on his part for redress, authorizes and demands the presumption of a waiver and abandonment of the claim. For the reasons already given, we think this safe and salutary rule equally applicable in private controversies, to legislative bodies and courts of justice.

The view thus presented dispenses with the necessity of considering much at large, another argument presented by the remonstrants, which is, that the charter being a compact between the government and the corporation, it was competent to those parties by mutual assent, even to vary its essential provisions; that the application of those elected by the corporators to represent them, for a modification of the charter, is in the first instance presumptive evidence of the assent of the corporators, or of a majority of them, to the proposed modification; that when such application is publicly known, and a small number of the corporators only remonstrate against it, the presumption is strengthened, that it receives the approbation of those corporators who are silent; and that if a law is passed pursuant to such application, and suffered to be in full operation for so long a period as thirty years, without complaint, the presumption becomes conclusive, and the evidence complete, that the alteration was made with the assent of the body of the corporators, and was accepted by them; and thus a new compact has been made between the government and the corporation, and the rights acquired under it have become vested.

Having expressed the opinion that it did not so clearly appear that the act of 1814 violated the rights of any corporators, so as to render it unconstitutional, it is not necessary for the committee to

decide upon the force of the argument just stated, which proceeds on the hypothetical assumption, that the then existing charter was altered by that act. But the committee are of opinion that the remonstrants are entitled to the benefit of this argument, and of the evidence furnished by the passage of the act and the circumstances attending it, as well as the subsequent acquiescence of all the corporators, in any judicial controversy that may arise between them and those claiming a right to vote in opposition to the provisions of that law. To the memorialists the existence of the act can afford no obstacle or impediment to the assertion of their rights, other than what may be derived from their acquiescence in its provisions; for if it was so clearly unconstitutional as to justify its repeal, the same objection would inevitably prevail in the courts of justice.

To repeal the act, if it had any effect whatever, would change the relations of the parties, would deprive the remonstrants of evidence upon which they have a right to rely, and give to the memorialists an advantage to which they have established no special or peculiar claim. This, your committee conceive, would be unjust to the remonstrants. And it is to be remembered, that this is purely and exclusively a contest respecting private rights, in which the public has no interest, other than that which it may have in every other private suit.

Your committee conceive that it is no answer to this view, to allege, that if the argument above stated be sound, and a new compact has been made between the government of the State and the corporation, by the act of 1814 and the circumstances attending it, then the law repealing that act, would be in itself unconstitutional, and would be so pronounced by the courts. The memorialists have no right to expect this Legislature to pass a law of doubtful validity, affecting the rights of others, merely to afford an opportunity of trying an experiment, to obviate the consequences of their own acts and omissions. If, upon such grounds and for such reasons, the act of 1814 should be now repealed, the remonstrants would be entitled to come to the next Legislature, upon precisely the same grounds, and ask the repeal of such repealing act, and with probably equal, if not greater force, solicit to be restored to a condition which was *not* the consequence of their own neglect.

It must be manifest that any action whatever on the subject by this Legislature, must be in effect, a decision upon the various complicated, and some of them difficult questions, which have been presented by the parties, and most of which have been stated in this report, and particularly the constitutionality of the act of 1814. Your committee cannot discover on what ground the parties have a right to require that the decision of these questions should be transferred from the appropriate tribunals constituted for the express purpose of determining them, to a legislative body created for purposes entirely different. There is no question of public policy involved, nothing affecting the interests of the State or its citizens at large, but a contest merely between one set of men who claim a right as corporators, and another set who deny that right. The Legislature is not the tribunal created under the Constitution to settle and determine private rights; and the attempt to do so would be as unwise, if not unconstitutional, as it would be disastrous in its consequences; and on this point your committee are gratified in being able to agree in the remarks of the Senator who made the minority report to the Senate in 1846, before referred to: "if the memorialists possess the rights that they claim, they should be left to assert and vindicate them in a court of justice, since it is the exclusive province of a court of justice to establish the validity of their claims," "the questions which they involve (the grounds presented by the memorialists) are precisely those that the Legislature have no right to determine or consider."

The question now submitted, has been deliberately passed upon by a Legislature whose impartiality and intelligence have not been questioned; that disposition has been acquiesced in for thirty-two years, by persons whose rights are said to have been outraged; there exists no obstacle to the fair presentation of their complaints to a court of justice, unless it has arisen from their own laches. The dispute is one substantially of a private nature, and the committee are unable to distinguish between this case and that of any other claim of a private right or difference between individuals, so as to render it expedient or proper for the members of the Legislature to assume judicial functions, and decide between those parties. They therefore unanimously recommend to the House the adoption of the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

M. BURNELL, *Chairman*,
H. SHUMWAY,
J. R. FLANDERS.

I concur in the foregoing resolution.

R. BALCOM.

The undersigned were prevented from attending the argument in the foregoing matter; but from an examination of the papers and documents submitted to the committee, have come to a conclusion similar to that above expressed and concur therein.

JOHN E. DEVELIN,
E. B. POTTLE,
FRANCIS UPTON FENNO.

REMONSTRANCE

OF THE

CORPORATION OF TRINITY CHURCH,

AGAINST THE

REPEAL OR MODIFICATION

OF THE

ACT OF 25TH JANUARY, 1814,

RELATING TO THAT CORPORATION, AND FOR OTHER PURPOSES.

PRESENTED IN THE HONORABLE HOUSE OF ASSEMBLY,
FFBRUARY 10th, 1847,
By Mr. WENMAN.

ALBANY:
C. VAN BENTHUYSEN AND CO., PUBLIC PRINTERS.

1847.

At a meeting of the Corporation of Trinity Church in the city of New-York, held at their vestry office, on the first day of February, Anno Dom. 1847—

A Memorial and Remonstrance to the Legislature on the subject of an intended application at its present session, for the repeal in whole or in part, of the act of 25th January, 1814, relating to this Corporation, was presented by the Comptroller and read, and it was thereupon

Ordered, That the same be adopted, and that it be signed by the Rector, Comptroller and Clerk, officially, and by the Churchwardens and Vestrymen, or such of them as shall see fit to sign the same; and that the Comptroller and Clerk affix the seal of this Corporation thereto, and that the same be thereupon forwarded and presented to the Legislature.

(A Copy.)

WM. E. DUNSCOMB,
Clerk.

REMONSTRANCE.

To the Honorable the Senate and House of Assembly of the State of New-York:

The Memorial and Remonstrance of the Rector, Churchwardens and Vestrymen of Trinity Church, in the city of New-York,

Respectfully showeth:

That your Memorialists have to defend themselves against an application to your Honorable bodies, by certain persons styling themselves, in their Petition, lately presented to the Honorable House of Assembly, *Inhabitants of the city of New-York, in communion of the Protestant Episcopal Church in the State of New-York*, for the repeal or modification of a certain law in relation to your Memorialists' corporation, passed January 25th, 1814, entitled, "An act to alter the name of the corporation of Trinity Church, in New-York, and for other purposes."

Your Memorialists respectfully represent to your Honorable bodies, that the same application was made to the Legislature of this State, at the last session thereof; that on one of the first days of the session of 1846, a petition, having exactly the same prayer, and almost the same statement of facts, and not varying much even in words, and not materially in substance from that now before the Honorable the Assembly, was presented in the Senate, and was by that body referred to a committee; that such first Petition was, from time to time, followed by others, in the same words, until the whole number of petitioners was 588 and no more; that shortly after the presentation of the first of said petitions, your Memorialists presented to the said Senate the following humble Remonstrance, which they beg leave now to confirm and reiterate, that is to say:

To the Honorable the Senate and House of Assembly of the State of New-York:

The Remonstrance of the Rector, Churchwardens and Vestrymen of Trinity Church, in the city of New-York,

Respectfully showeth:

That your Remonstrants have heard with surprise that an attempt is being made to induce your Honorable bodies to pass a law that will seriously invade the chartered and corporate rights of your Remonstrants; that such attempt is to procure the repeal in whole or in part of the act of the Legislature of the State of New-York, entitled, "An act to alter the name of the Corporation of Trinity Church in New-York, and for other purposes," passed 25th January, 1814: or that it may be so modified that its provisions shall not be urged as creating any obstacle to an assertion of certain supposed legal rights, said to be defined and fixed by the previous acts of 1784 and 1788.

Your Remonstrants respectfully represent to your Honorable bodies, that when the said act of 25th January, 1814, was applied for, the following petition for the same was presented to the then Legislature of the State, viz:

* "To the Honorable the Legislature of the State of New-York:

"The Petition of the Rector and Inhabitants of the City of New-
"York, in communion of the Protestant Episcopal Church in the
"State of New-York,

"Respectfully showeth:

"That so long ago as in the year one thousand six hundred and
"ninety-seven, your Petitioners were incorporated by letters patent
"under the great seal of the colony of New-York, and have ever

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* The determination to apply to the Legislature appears upon the minutes of the Vestry of the 4th of January, 1813, in the following form:

"Resolved, That *Richard Harison, David M. Clarkson, Thomas Barrow, Robert*
"*Troup, Jacob Le Roy, Peter Augustus Jay, and Thomas L. Ogden,* be a Committee
"on the State of the Church, with full power to make such application to the Legis-
"lature at its ensuing session, relative to the affairs of this Corporation, as the said
"Committee shall judge to be proper."

" since continued to be a body politic and corporate, by virtue of " their said charter.

" That at the time of granting the same, it was contemplated " that Trinity Church therein mentioned, should be the sole and " only parish church of the Protestant Episcopal denomination, in " the said city, and that in fact it continued to be so until the Re- " volution, by which the independence of the United States was " obtained, and for a number of years after that memorable epoch.

" That soon after the Revolution above mentioned, an act of the " Legislature, passed for making such alterations in the charter of " the corporation of Trinity Church as to render it more conform- " able to the Constitution of the State; by one clause whereof all " the rights, privileges, benefits and emoluments which in and by "the said charter were designed to be secured to the inhabitants of " the City of New-York in communion of the Church of England, " were conferred upon all persons professing themselves members " of the Episcopal Church, who should hold, occupy, or enjoy a " pew or seat in the said Church, and should regularly pay to the " support of the said Church, and such others as should in the said " Church partake of the holy sacrament of the Lord's Supper at " least once in every year, being inhabitants of the said city.

" That since the passing of the act above referred to, the pew- " holders of Trinity Church and of the churches or chapels belong- " ing to the said corporation, and the regular communicants therein, " have been the only persons admitted to vote at elections for " church-wardens and vestrymen of the said corporation according " to the just and fair construction contemporaneously and ever since " given to the said act.

" Your Petitioners beg leave further to show, that in consequence " of the rapid and unexampled increase and prosperity of our coun- " try since the said revolution, and the corresponding growth and " population of the City of New-York, Trinity Church, aforesaid, " with the churches and chapels belonging to its corporation, be- " came insufficient for the accommodation of all the inhabitants of " said city who professed themselves members of the Protestant Epis- " copal Church, or wished to become so, on which account, and for " a variety of other reasons not necessary to be suggested, numerous " persons of this description have been induced from time to time, " to form themselves into distinct corporations, each having its own

" peculiar endowments and places of worship, with rectors and " other officers of their own choice, totally independent of any con- " trol or interference of your Petitioners.

" That a number of such religious corporations have accordingly " been organized as the law directs, some with and some without " the concurrence of your Petitioners; to all which your Petitioners " have made liberal donations, and with whose internal concerns " your Petitioners or any of the members of the corporation of Tri- " nity Church, as such, do not claim any right to intermeddle ; nor " do the said corporations possess or claim any right for themselves " or their members to vote in the elections, or regulate the affairs of " Trinity Church.

" Nevertheless, a few individuals belonging to such separate cor- " porations, have recently pretended to claim that right, and at the " last annual election of church-wardens and vestrymen of Trinity " Church, held in the month of March, in the year 1812, two or " three persons being members of incorporated churches, separate " and distinct from your Petitioners, tendered themselves as voters; ' but their votes under an ordinance previously passed by your Pe- " titioners, were rejected, and no measures have been yet taken to " enforce or establish the right so claimed.

" It must be obvious, however, that attempts of this nature cannot " fail to produce strife and litigation, and to foster and keep alive " pretensions of the most unreasonable nature, and of the most mis- " chievous tendency.

" Your Petitioners are, moreover, sensible that since the forma- " tion of such distinct corporations, the corporate name by which " your Petitioners are designated has become inapplicable, and ought " to be changed ; as they do not comprehend in their body all the " inhabitants of the city of New-York who now profess to be of the " Protestant Episcopal Church ; and your Petitioners are further " convinced that it has become essential to the peace and harmony " of said church, that all doubts respecting the persons entitled to " vote for churchwardens and vestrymen of Trinity Church, which " may exist or arise in consequence of the said separate incorpora- " tions, should be finally obviated and settled.

" Your Petitioners beg leave further to represent, that the law " which requires religious corporations in New-York, Albany, and

" Schenectady, to exhibit an inventory and account of their estates " and revenue at certain periods, is attended with considerable ex- " pense and trouble, without producing any valuable effects; that " after such inventory and account has once been exhibited it cannot " be useful to exhibit it again, unless the corporation should acquire " further estates; and that as far as the corporation of Trinity " Church is concerned, they have hitherto complied with the law, " and hold no property (their communion plate and church furniture " excepted) other than what they held and were possessed of long " before the said Revolution, and are legally entitled to hold by the " charters and grants of the ancient government, confirmed and " established by the Legislature of the State; though your Petition- " ers have greatly diminished that property by grants and donations " to Columbia College, to a free School which the Legislature has " incorporated, to a Society formed for the promotion of religion " and learning, and to many churches and religious societies, not " only in the city of New-York, but elsewhere in different parts of " the State.

" Your Petitioners therefore pray, that your Honorable Body will " pass an Act for altering the name of their incorporation; and also " to obviate and settle the questions that might arise in consequence " of incorporating other Episcopal congregations in the city of New- " York; and to do away the necessity of such inventory and ac- " count being exhibited more than once, unless upon the acquisition " of additional property, by religious corporations.

" And your Petitioners will ever pray, &c.

" By order of the Corporation of Trinity Church in the city of " New-York.

" [L. S.] T. L. Ogden, *Clerk.*"

Your Remonstrants further respectfully represent, that the said petition was true in every particular, and that it received the most favorable attention of the Legislature — that the bill brought in pursuant to its prayer " was popular in both Houses of the Legisla ture and it passed by large majorities." That objections were however made to it in the Council of Revision, which upon consideration were neither sustained nor overruled, that board being equally divided, so that the bill became a law by virtue of the clause of the

then existing Constitution, the Council of Revision having taken no order upon the subject. But your Remonstrants would respectfully remark, that upon the Hon. Chancellor Lansing's considering the arguments contained in a pamphlet written by Robert Troup, Esq., then one of the vestrymen of the church, which is referred to in a note immediately following the act in the Session Laws of 1814 — in favor of the bill and against the objections of the Chancellor, he was constrained to change his opinion and to vote in favor of its passage.

And your Remonstrants further respectfully represent, that if the law of 1814 had never been passed, the reasons urged in the above petition would apply at the present day with much greater force than they did then, and instead of allowing the then existing doubts to continue, it would be an act of wise legislation to pass a similar act, which in respect to the section now complained of, is merely declaratory in its nature.

And your Remonstrants further respectfully represent, that the law in question, at the time it was pending before the Legislature, received the almost entire support of all the Episcopalians then residing in the city of New-York. That by the nature of the agreement with the corporation of St. George's church in said city, by which it, formerly a chapel, was separated from the parish of Trinity Church and endowed from its funds and estate, all claims of the new corporation and of its members upon the remainder of such funds and estate, and of any right to act as corporators of Trinity Church, were expressly yielded, and that renunciations of all pretences of that nature were voluntarily made by several of the other churches then existing in said city, a copy of one of which is hereunto annexed and respectfully submitted.

And your Remonstrants further respectfully represent that the said act, has now been in force thirty-two years, during all which time it has been submitted to and acquiesced in by every body, except in one instance which occurred at the annual election in the parish of Trinity Church, held in St. Paul's chapel in the year 1844, and at a time of uncommon excitement in the Protestant Episcopal Church, when one person, and he a gentleman of the legal profession, claimed the right to vote; he admitted that he had never communed in Trinity Church or in either of its chapels, that he did not

own or hire a pew or seat in any or either of them, and had never contributed to the support of Trinity Church; that such claim to vote was then denied; and that such person never attempted to establish his claim by recourse to any court of justice of the country.

And your Remonstrants further respectfully represent, that owing to the great increase of the city, instead of nine other Protestant Episcopal Corporations, as there were in the city of New-York in 1813, besides your Remonstrants who have three Church edifices, each of which accommodates a large congregation, there are now thirty-two separate and distinct Protestant Episcopal Church Corporations, and four organized congregations, as yet not incorporated to the knowledge of your Remonstrants, including two of colored people, and one free chapel for seamen. That all the said churches which have been added since 1813, must in law be deemed to have been formerly part of and taken from some one or more of the churches or parishes that existed in that year, and the members of the new churches, or their parents, must be considered as formerly members of some or other of the original parishes, but that in fact a great proportion of said new congregations have, since the act in question, either removed to the said city from other parts of the State, or from without the State, or have joined the Protestant Episcopal Church from other denominations of christians.

And your Remonstrants further respectfully represent that almost every of the said new churches in New-York have been assisted by donations from the property and funds of your Remonstrants, and that they have during the last thirty years, also largely contributed to new churches in every other part of the State, so that the income of the corporation has never been at all equal to the expenditures, the deficiency being supplied from the proceeds of sales of parts of the real estate, which has by such means become very much reduced in quantity, and from loans made to your Remonstrants.

And your Remonstrants further respectfully represent, that the elections in the Episcopal churches are usually conducted peaceably and quietly, and rarely with any, and always without much excitement, it being generally understood that a great majority of every congregation, if not all, are decidedly of one opinion, so that the minority, if any, makes no opposition. That so much is this the

case, that in constituencies consisting of several hundreds, it is not uncommon that only a few, and very often less than twenty, votes are received:—That this is also partly caused by the limitation of the elective franchise by the act to incorporate Religious Societies, to male persons of full age, otherwise duly qualified according to law:—That in the elections held in the Corporation of Trinity Church, when there is no contest, the number of votes does not exceed one hundred and fifty ; but that whenever it was known that there were two or more tickets, the number has been much larger. That no unfavorable inference should be drawn from the neglect of corporators to exercise their right of voting:—That no difficulty is opposed to any persons becoming corporators ; the by-laws of your Remonstrants having set the door of the church wide open to all, as well to the poor as to the rich, to come in and constitute themselves members of the corporation, the requirements being merely that they shall signify their intentions to the Rector, duly attend the services of the church, and partake of the Holy Communion "in said church" :—And that all or any of the Petitioners for the repeal of the act, could have, and can at pleasure become members of the corporation, by complying with such easy requirements, "without money and without price."

And your remonstrants further represent that the said act of 1814, was passed at a time when peace had just been restored after long and angry controversies, and for the purpose of preserving the order and harmony of a great religious communion, which it has happily effected and maintained for the long period of nearly two generations ; and that it is now sought to renew these long settled disputes, and to throw a firebrand into the Church, at a time of great excitement, when very many of its members unfortunately cannot act calmly and temperately on any matter of great interest.

And your Remonstrants further and finally represent to your Honorable Bodies that the reason given for the repeal or modification of the said law that it is unconstitutional, cannot and ought not to be justly entertained, and even were it so, it is not sufficient for the purpose,—inasmuch as it is peculiarly the province of the courts of justice to decide all such questions—and your Remonstrants respectfully suggest that the interference of the Legislature on such ground would more embarrass the questions that do and may arise upon the law, by adding to those now existing the very grave one

of the right of the Legislature to repeal a law of the character of that of 1814, without, and in fact against, the concurrence of the corporation in question.

And your Remonstrants will ever pray, &c.

By order of the Rector, Churchwardens and Vestrymen of Trinity Church, in the City of New-York.

WILLIAM BERRIAN, D. D., Rector.
Wm. E. Dunscomb, Clerk.
[L. S.] Wm. H. Harison, Comptroller.

Adam Tredwell, E. W. Laight,	*Churchwardens.*
Teunis Quick,	Thomas L. Clark,
Peter A. Mesier,	William Moore,
A. L. Underhill,	Wm. H. Hobart,
Wm. Johnson,	Henry Youngs,
Philip Hone,	Alex. L. McDonald,
Wm. E. Dunscomb,	Saml. G. Raymond,
Wm. H. Harison,	G. C. Verplanck,
Robert Hyslop,	John I. Morgan,
Henry Cotheal,	David B. Ogden,
Philip Henry,	*Vestrymen.*

SCHEDULE A.

At a meeting of the Rector, Church-Wardens and Vestry of the Protestant Episcopal Church of St. Mark's in the Bowery, in the city of New-York, April 16th, 1812.

Present—The Rev. Doctor Harris, Rector.
Mr. Ogden, and Mr. Minthorne,
Wardens.

Messrs. Hoffman,	A. Ogden,
Turnbull,	Bird,
Norroway,	Fish,

Vestrymen.

Mr. *Ogden presented to the Vestry for consideration the draft of a letter to the Vestry of Trinity Church in the words following, viz:

* William Ogden and Mangle Minthorne were the church-wardens. Martin Hoffman, George Turnbull, Anthony Norroway, Andrew Ogden, Robert Bird and Nicholas Fish were the vestrymen present. They are all deceased. The vestry, when full, consisted of ten persons besides the Rector.

New-York, April 16, 1812.

Gentlemen:

We believe that it is eminently the duty of Christians to live together in brotherly affection; and that the obligations to discharge this duty lie with greater weight on the members of the same Church. Feeling as we ought the full force of this sentiment, we have learnt with regret, that some of our Episcopal brethren, assert the claim of a general right in all the Episcopal Churches on this Island to vote at your Elections, for Churchwardens and Vestrymen. Whatever color may be given to this claim by any ambiguous words to be found in your charter, we sincerely take pleasure in declaring that the congregation of St. Mark's Church, which we represent, have no desire to assert the claim, and that we will, at any time hereafter, cheerfully unite with your respectable body in an application to the Legislature, if the measure shall be thought expedient, for an act to explain the charter, and confine the right of voting solely to the congregations of the Churches under your immediate government; and we beg leave to add, that we shall cheerfully unite in such application as well from the earnest wish we have to restore harmony and establish peace by removing the uneasiness which, we understand, the claim has created in the minds of many of the members of Trinity Church, as from the strong sense we entertain, that the measure itself is dictated by the natural fitness of things, and more especially by the never to be forgotten rule of doing to others what under similar circumstances we should like to be done to ourselves.

With the most respectful consideration
We are, Gentlemen,
Your humble Servants.

On motion, *Resolved*, That the same be adopted, and that the Clerk of this Vestry prepare and transmit to the Vestry of Trinity Church a copy of the same under the seal of this Corporation.

Extract from the proceedings of the Vestry of St. Mark's Church.

Nich's. Fish, *Clerk*, [L. S]

At an adjourned Meeting of the Corporation of Trinity Church in the City of New-York, held in their Vestry office on the 14th day of January, An. Dom. 1846.

The Special Committee appointed at the last meeting of the Vestry on the subject of an intended application to the Legislature at its present session, for the repeal in whole or in part of the Act of the 25th January, 1814, relating to this Corporation, and who were instructed to report a proper Remonstrance to the Legislature, presented such Remonstrance prepared by them, which was read, and it was thereupon Ordered that the same be adopted, and that it be engrossed and signed by the Rector, Comptroller, and Clerk officially, and by the Churchwardens and Vestrymen, or such of them as shall see fit to sign the same; and that the Comptroller and Clerk affix the seal of this Corporation thereto, and that the same be thereupon forwarded and presented to the Legislature.

Extract from the Minutes,

Wm. E. Dunscomb, Clerk.

Your Memorialists further respectfully represent that the present petitioners for the repeal or modification of the said law of 1814, are some of the same persons who so last year petitioned. That the applicants then chiefly consisted of members of a few, and not exceeding five or six, religious corporations of the city of New-York, some of which have been largely endowed, and made rich and independent by, and out of the property of your Memorialists; and the others of which have received from your Memorialists, such aids in money as relieved them from debt and embarrassment, and to such amounts, as must preclude all just expectation of having future contributions voluntarily made from the same source. That, on the other hand, whilst no Church in its corporate capacity, or as a body, joined in the application for the repeal or modification of the said act, ten other Religious Corporations in the City of New-York, and of the communion of the Protestant Episcopal Church in the State of New-York, respectfully signified to the Honourable the Legislature, at the same session, their earnest desire that there should be no interference whatever with the corporate rights of your Memorialists, as may appear by the acts and proceedings of those Churches, respectively, either duly certified by the proper officers, or else

signed by all the members of their vestries present at the meetings, and now on the files of the Honorable the Senate, and to which your Memorialists beg leave to refer. That in addition to such remonstrances of the Church Corporations, other remonstrances to the same effect were presented to the Legislature at the same session, and are now remaining on the files of the Honorable the Senate. That it appears that the Remonstrances last mentioned were respectively signed and presented by the male members of the Corporation of Trinity Church generally, and by 825 other persons, male members of tho Protestant Episcopal Church, who reside in the city of New-York, and were *not* of the parish of Trinity Church, and who had, therefore, precisely the same rights as the said applicants had, if they had any at all, under the charter of your Memorialists, or the laws affecting it, and that such remonstrances were also signed and presented by several other members of the Protestant Episcopal Church, who resided out of, but on the confines of the said city.

And Your Memorialists further respectfully represent that counsel for the Petitioners were last year heard before the committee of the Honorable Senate, to which the matter had been referred, and that two professional members of the vestry also appeared and argued there in behalf of your Memorialists. That a report* was made to the said Senate on the 9th day of April, 1846, by the said committee, recommending "that no legislative action be had on the subject, and that the prayer of the Petitioners be denied;" and on the same day a minority report† was made by one of the committee, who brought in a bill to repeal the said act of January 25th, 1814 And that the said reports and bill were never taken up and considered by the said Senate, notwithstanding your Memorialists were anxious for the same, and by their officer and agent repeatedly requested and urged their consideration.

To this statement of the occurrences at the last session of the Legislature, your Memorialists beg leave to add and further represent, that another annual election of churchwardens and vestrymen of your Memorialists' corporation took place whilst those proceedings were pending, and that the same qualifications which had been uniformly required, since the year 1814 inclusive, were prescribed at the said election, that no resistance or objection was made to such

* Senate Doc. No. 118, of 1846. † Senate Doc. No. 117, of 1846.

requirement, and that no person appeared at such election and demanded permission to vote who was not thus qualified: thus one more year is added to the previous 32 of silent submission to, and acquiescence in the said law.

Your Memorialists, therefore, humbly PRAY that they may not be disturbed in those rights which they have now so long beneficently exercised, but that if there is any doubt of the validity or the construction of the said law, the decision may be left to the rightful jurisdiction of the courts of our country.

And your Memorialists will ever pray, &c.

By order of the Rector, Churchwardens and Vestrymen of Trinity church, in the City of New-York.

[L. S.]

WM. BERRIAN, D. D.
Rector,

WM E. DUNSCOMB.
Clerk,

WM H. HARISON,
Comptroller.

ADAM TREDWELL,
E. W. LAIGHT,
} *Church-wardens*.

Teunis Quick,	Wm. Moore,
Peter A. Mesnier,	Wm. H. Hobart,
A. L. Underhill,	Henry Youngs,
Philip Hone,	Alex. L. McDonald,
Wm. E. Dunscomb,	Samuel G. Raymond,
Wm. H. Harison,	G. C. Verplanck,
Robert Hyslop,	Philip Henry,
Henry Cotheal,	David B. Ogden,
Thomas L. Clark,	Anthony J. Bleecker.

Vestrymen.

* OPINION

OF

MESSRS. TROUP, HAMILTON AND HARISON.

In consequence of a resolution of the Vestry of Trinity Church of the ninth of November instant, we have considered the subject therein mentioned, *and are of opinion that the Corporation of St. Mark's Church can have no valid pretensions, either at law or in equity, to any part of the property of the Rector and inhabitants of the City of New-York*, in communion of the Protestant Episcopal Church in the State of New-York; but nevertheless for greater caution, we approve of their taking from the Corporation of St. Mark's Church a Deed in the form of that marked A, when the lots lately set apart for that purpose are conveyed to the said Corporation. New-York, the 21st November, 1801.

ROB'T TROUP,
ALEXNNDER HAMILTON,
RICH. HARISON.

* See *Parish Annals, a Sermon, etc., by Henry Anthon, D. D.* New-York: 1845. pp. 33 and 34.

State of New-York.

No. 45.

IN SENATE, FEB 20, 1856.

COMMUNICATION

Of the Vestry of Trinity Church, in the city of New-York, to the Honorable the Senate of the State of New-York, in reply to resolutions of the Senate, passed April 13th, 1855.

To the Honorable the Senate of the State of New-York:

The rector, church wardens and vestrymen of Trinity Church, in the city of New-York, having received from the Clerk of your honorable body a copy of the resolutions of the Senate, passed on the 13th day of April, 1855, in the words following:

"*Resolved*, That the vestry of Trinity Church, in the city of New-York, be and they are hereby required to report to the Senate of this State, on or before the seventh day of January next, the number and the names of the persons entitled, under an act to alter the name of the corporation of Trinity Church, in New-York, and for other purposes, passed January 25th, 1814, to vote at the annual elections for church wardens and vestrymen of the present corporation of Trinity Church, specifying those who vote as communicants, and those who vote as pew holders in the said church, and the names of the per-

sons so entitled, who did actually vote at each of the three last annual elections held for the choice of church wardens and vestrymen of said corporation; also

Resolved, That the said vestry be and they are hereby directed to report to the Senate of this State, on or before the seventh day of January next, the amount of money expended by said corporation in building or in aiding and assisting to build free churches in the destitute portions of the parish of Trinity Church, as originally constituted and declared, and the names of such churches, with the amount expended upon each; also the number and names of the churches in the city of New-York, built, in whole or in part, by the said corporation, within the last five years, and the amount expended on each; the number and names of the Protestant Episcopal churches situated in the city of New-York, in feeble and necessitous circumstances, which have been aided and assisted by the said corporation within the last five years, and the amount of such aid and assistance, afforded annually or otherwise, to each; also the number and names of the churches in the city of New-York endowed by the said corporation within the last five years, and the amount of such endowment in each case; also,

"*Resolved*, That the said vestry be and are hereby required to report to the Senate of this State, on or before the seventh day of January next, whether any, and if any, what appropriations have been made by them during the last three years to institutions of charity, benevolence or learning, in the city of New-York, and the amount to each; also,

"*Resolved*, That the said vestry be and they are hereby directed to report to the Senate of this State, within the first week of January next, the estimated value of each lot and parcel of land owned by the said corporation in the city of New-York, irrespective of the leases thereon.

"*Resolved*, also, That said vestry report to the Senate of this State, on the first week of January next, a statement of the number of lots belonging to said corporation, the leases of which have expired within the five years ending on the first of No-

vember, eighteen hundred and fifty-five, and whether said lots have been re-let, or have been sold," Make the following

REPORT:

But before entering upon the statements hereinafter contained, the vestry beg leave, respectfully, to aver that they furnish the information requested by the Senate, not as acknowledging the power of the Senate to exact such information, but in order that they may not be deemed to be wanting in respect for your honorable body, or unwilling to display to the public the state of this corporation, its financial condition, and the management, by this vestry, of its property. They feel satisfied that the facts presented in this paper will remove any unfavorable impression detrimental to the interests of Trinity Church, which may have been occasioned by representations which, it is conjectured, have induced your honorable body to pass the resolutions above contained. But being charged with the care and guardianship of a large property and important rights, they beg leave, respectfully, to represent that the requiring of such reports as that asked for by the resolutions of the honorable Senate, is not justified by any legal principle, and is oppressive of this corporation. If there should, at any time, be any just cause of complaint against this corporation, the courts are open and are adequate to afford a remedy; and the entering, by the Legislature, upon an investigation into the affairs of any single corporation, which investigation, if it has any materiality, properly belongs to such courts, is an assumption of their powers, and is burdensome upon the corporation affected, by calling upon it to justify itself, by laborious statements, or production of evidence to a tribunal which has no power to decide. This corporation has, within a few years past, made answer to two similar calls for information from the houses of the Legislature, the one contained in the resolutions of your honorable body, of the 9th day of March, 1846, and the other contained in the resolutions of the honorable the House of Assembly, of March 4th, 1854. There is no provision in the charter of this corporation, and no general statute requiring it to report to the Legislature, and because this vestry have found the answer to these repeated requirements expensive and onerous, and believe them to

be an infringement of the chartered rights of Trinity Church, they humbly protest against the right of the Legislature, or either branch of it, to call for reports from this vestry relative to the condition or affairs of this corporation.

In reference to the inquiry as to the corporators of Trinity Church, the vestry state:

That the total number of the corporators is 305, of whom 92 are communicants, and 213 are pew holders. The total number of communicants, both male and female, reported at the last annual convention of the diocese, was at that time about 800. This was shortly after the time when the number of the clergy of the parish was increased to nine, with a view to promote the influence of religion among the poor residing in the lower wards of the city, and their work having then been recently commenced, a considerable increase may be expected to the number of communicants above reported, after a sufficient time shall have elapsed to show the result of their labors. A like increase may also be expected from the persons worshiping in the new Trinity Chapel lately erected, who for the space of one year shall have been members of the congregation of that chapel. This new chapel was principally built for the accommodation of the parishioners and their families who had been a long time in the parish, but had removed too far from the parish church and chapels to continue to worship therein, and thus by inducing their return to increase the number of our constituency. This being an ancient parish, a large number of its pew owners have deceased, and their pews are owned by their families, many of whom occupy them or let them to others for occupancy. The number of such pews is 124. A number of pews amounting to 44 are also owned and occupied by females. These classes of pew owners are of course not enumerated among the corporators because they are not entitled to vote. Since the present effort was commenced for the spread of the gospel among the poor in the lower wards of the city, the churches there situated, viz: Trinity Church, and St. Paul's and St. John's Chapels, are well attended, and their congregations are increasing. The congregation of the new Trinity Chapel is full. To further this effort

among the poor, the vestry have kept 133 pews belonging to the church, or of which it has the use, free for occupancy by all. These pews are many of them among the best in the church and chapels, and are as follows, to wit:

Church pews.

No. in Trinity Church,	43
" St. Paul's Chapel,	36
" St. John's Chapel,	22

Pews of which the Church has the use for one year.

In Trinity Church,	13
In St. Paul's Chapel,	13
In St. John's Chapel,	6
	133

These 133 pews afford	665	free seats.
Besides these there are in the aisles of Trinity Church and Trinity Chapel about	400	" "
Making the total number of free seats,	1065	

and at all evening services all seats are free.

The corporators voting at the annual election for church wardens and vestrymen have been generally few for a long series. The cause of this may be found in the confidence reposed in the discreet and prudent management of the affairs of the vestry, (a body consisting of 23 persons) and in the fact that in the absence of any contest the corporators have not deemed it important to exercise their privilege of voting, except to a limited extent.

The number of voters at the annual elections in each of the years next mentioned were respectively as follows, to wit:

In 1846,	97
" 1847,	43
" 1848,	37
" 1849,	54
" 1850,	23

In 1851,	65
" 1852,	29
" 1853,	127
" 1854,	26
" 1855,	32

In reference to the inquiry as to the estimated value of each lot and parcel of land owned by this corporation in the city of New-York, the vestry annex hereto a schedule marked A, showing as to each lot its situation; its value with the buildings thereon (the property of the tenants) as assessed in 1855, by the officers of the city for the purpose of taxation (except such as are exempt from taxation, which are particularly noted); the estimated portion of such value for the buildings; the net value of the lot deducting the buildings, irrespective of the leases; the annual ground rent reserved to the church; the expiration of the term, and the present value of the reversion and of the ground rents to the church. From this schedule it will appear that the total value of the property embraced therein, irrespective of the leases and of the buildings, is $2,668,710. The total amount of the annual rents thereof is $71,301.97; and the present total value of the reversions of the church therein, including present value of ground rents, is $1,984,322.62. Within the period of the five years ending 1st of November, 1855, referred to in the resolutions of your honorable body, the leases of 84 lots belonging to this corporation have expired. Of these 47 lots have been re-let, and the reversions in fee of 37 have been sold. And during the same period 76 other lots of the church have been sold either to the tenants, or, the lots being vacant, to other purchasers; making the total number of lots sold within said five years one hundred and thirteen.

That the Senate may be fully informed of the resources of this corporation, and of the charges to which they are applied or are properly applicable, the vestry do not content themselves with giving the information asked by the resolutions of your honorable body.

The Senate will perceive that the whole present value of the

landed estate of Trinity Church exclusive of the present value of rents, is $1,446,371.71.

In the management of the property of this corporation it has been the policy of the vestry for a long series of years, by gifts of lots or by proceeds of sales, as opportunity afforded, to aid other churches in the city of New-York and in various other parts of the State, and to found or assist by the same means institutions of learning or charity, or to contribute to the maintenance and support of the organization of the church in this State; and by reason of these gifts and sales the landed estate has been and is gradually diminishing in extent, so that now, out of the lots originally owned by Trinity church, computed as the vestry believe accurately at 2068, not more than 691 remain. But owing to the peculiar nature of the property, and the fact that the lessees alone offer to purchase leased lots, sales have at times been slow; and the vestry, mainly in order to meet the pressing needs of other churches and institutions, has incurred a large debt in anticipation of such sales. This debt on the 1st May, 1855, the end of the last financial year, amounted to $648,913; and in effect for the most part represents a gift of an equal amount in value of land to other churches or institutions, for it must be provided for out of sales of such lands. The lots included in the foregoing valuation comprise all the real estate of this corporation, excepting so much as is occupied by churches or grave-yards.

Besides this real estate, at the end of the last financial year it possessed bonds and mortgages, taken from purchasers upon sales of land, amounting to $199,469.41.

Thus the whole productive estate of Trinity Church is correctly stated as follows:

Real estate,.....	$1,446,371 71
Bonds and mortgages,.....	199,469 41
Cash in bank at the end of the last financial year,	19,399 46
	$1,665,240 58
Deducting the debt,.....	648,913 00
Shows the whole nett value to be,.....	$1,016,327 58

This statement will make it manifest that this vestry has done its utmost to make the capital of the property of this corporation available for the founding or support or promotion of religious, charitable or educational institutions or purposes. Not for her parish nor for her churches has she thus disposed of this estate, nor has she for herself or her own people incurred this large debt; but for other parts of the church of God—to spread his gospel for the increase of true knowledge, and to diffuse the blessings of charity, Trinity Church has hastened to dispense abroad out of her own bounds, the surplus which she could spare. It has been said by persons belonging to other churches in the city of New-York, not of the corporation of Trinity Church, that this excess has been given all over the State, and that it ought to have been distributed within that city. But not so have this vestry read their duty. They have exercised a discretion (not limited in its application by law to any section of the State,) to give where it seemed most for the advantage of the church to which they belong. They have the *greater* interest and solicitude concerning the city of New-York, and especially those parts of it which are within the bounds of this parish; but it has never been their policy to *confine* their distribution of the surplus property of this corporation to the churches in this city.

The vestry have thus endeavored to show the present condition of the capital of Trinity Church, and the disposition hitherto made of it. But they desire further to exhibit the present income of the church and the purposes to which it is devoted and is applicable.

The revenue of the church then is as follows:

Rents from real estate as per schedule A,.....	$71,301 97
Pew rents (estimated at),.....	11,163 50
Interest on bonds and mortgages ($199,469.41) at rates varying from 6 to 7 per cent.,.....	13,962 85
Amounting in the whole to,.....	$96,428 32

From this must be discharged the following annually recurring expenses:

Interest on $648,913 of debt, at rates varying from 5 to 7 per cent,...	$41,895 51
Expenses of parish for schools and visitation and relief of the poor,	3,850 00
Salaries to clergymen and to officers of this corporation,.....	40,300 00
Expense of maintaining choirs and music in four churches, and repairs and supplies,.....	17,276 00

Annual allowances to other churches now made by the vestry.

To the Church of All Saints, N. Y.	$500
" " Holy Evangelists, N. Y.,.....	1,200
" " St. Stephens, N.Y.	500
" " The Nativity, "	1,025
" " St. Clements, "	400
" " St. Philips, "	400
" " St. Peters, "	400
" Christ Church, "	400
To the Church of St. Andrews, "	300
" " Holy Apostles "	300
" " The Epiphany "	300
" " St. Matthew, "	500
" Zion Church, "	300
" Church of St. Marks, Williamsburgh,.....	300
" St. Luke's Church, N. Y.,.....	2,100
" Church of St. George the Martyr, N. Y.,.....	1,100
" Mission Church among Seamen, N. Y.,.....	800
" Church of the Good Shepherd, N. Y.,.....	200
" Church of St. John, the Baptist, N. Y.,.....	200
" Church of The Transfiguration, N. Y.,.....	500

To Church of the Holy Martyrs, N.Y.			$400		
"	"	The Advent,	"	200	
"	"	St. Mary,	"	200	
"	"	All Angels,	"	200	
"	"	St. John the Evangelist, N. Y.,		200	
" St. Paul's Church, Williamsb'g,				340	
" Church of the Intercession, N. Y.				200	
"	"	St. Timothy,	"	200	
"	"	The Holy Innocents, N. Y.,		500	
"	"	The Messiah, N. Y.,		200	
"	"	St. Ann's,		500	
"	"	St. Cornelius, Governor's Island, N. Y.,		200	
" Grace Church, Brooklyn,				1,000	
" Church of St. George, Flushing, L. I.,				400	
"	"	St. Paul, Owego,		70	
"	"	St. John, Clayville, Oneida co.,		100	
"	"	St. John, Monticello, Sullivan co.,		100	
"	"	Zion Church, Sandy Hill, Wash'g'n co.,		140	
					16,875 00
Annuities to widows and families of deceased clergymen,					3,300 00
For support of mission in Africa,					250 00
					123,746 51
					$27,318 19

It is apparent that in the present position of their affairs it is not in the power of the vestry of Trinity Church to render assistance to any great extent to other churches, the want of which, this vestry conjectures, has prompted an application to your honorable body, and has been the remote cause of the action to which this communication is a response. And the same cause, the inability to distribute a surplus which the vestry did not

possess, has limited the appropriations of money to the relief of other churches for the five years referred to in the resolutions, in like manner as it is a restraint for this year. The debt has not within that time been diminished but increased, whilst the vestry has sold as much land as there was demand for. Moreover, demands of a different kind press upon the vestry. All but one of the churches of this corporation are situated in the lower part of the city, surrounded by the poor, the ignorant, and the emigrant; a district which (with the single exception of a floating chapel for seamen) all other churches and congregations of our communion, and with few exceptions of other communions, have deserted. The duty has therefore fallen upon Trinity Church to gather the people of this district, who belong to the Protestant Episcopal church, into four churches: Trinity Church, St. Paul's Chapel, St. John's Chapel and St. George's, in Beekman street, to minister to them the holy offices of religion; to aid and to instruct them, and to that end to establish and maintain schools and to devise and execute a judicious system of alms-giving, and of the visitation and giving advice to the poor, through clerical and lay assistance and labor. On such plans for the good of the poor has the vestry now entered. They have been in part devised and in part executed, and further measures for the attainment of the same ends are yet in contemplation. Hence must arise a considerable increase of the annual expenses of Trinity Church for the benefit of her own people, and a proportionate want of power to respond to the applications for aid from other congregations. To such applications she has ever been willing to respond, regulating her gifts by her ability and her judgment of what was required for the good of the church; but she has never been able to keep pace with the unreasonable and exaggerated notions both of the duty of her vestry and of the value of her estate which have long been entertained by many members of the Protestant Episcopal church.

It has already been stated in this communication that this corporation has, by gifts and grants of money and land made from time to time for a long series of years, greatly diminished its estate. The vestry now proceed to make briefly a statement of such gifts and grants, not, however, confining themselves to the

periods or to the objects specified in the resolutions of your honorable body, and the vestry beg leave to express the hope that the information they have thus afforded, both that in direct response to the inquiries of the Senate, and that not required by the resolutions herein inserted, may be satisfactory to your honorable body.

This corporation made the donations of property or land to free churches situated in the city of New York, and for the purposes and within the years next hereinafter respectfully stated, to wit:

1807.	St. Michael's Church, to aid in building the church,.....		$2,000 00
1809–13.	To St. Michael's and St. James' Churches, for their support,..		2,000 00
1813.	St. Michael's and St. James' Churches,.....		1,400 00
1813.	St. Michael's and St. James' Churches,.....		900 00
1809.	Grant of six lots of ground in Chambers, Vesey and Warren streets to same churches.		
1832–47.	To the city Mission Society in annual allowances for the support of several free churches, of which such society were the owners and had the charge,...		22,500 00
	The Church of the Nativity:		
1834–35.	To aid in building the church,	$5,000 00	
"	Payments to the same for its support,.....	12,111 00	
1847–49.	To aid in building the Church on a new site,.....	9,000 00	
			26,111 00
	Churches for seamen:		
1844–55.	For their support,.....		6,100 00

Church of St. Cornelius, Governor's Island, for soldiers:			
1846. To aid in building the church,..	$500 00		
1847–55. For the support of the church,	1,500 00		
			$2,000 00
The Church of the Good Shepherd:			
1850–55. For the support of the church,			2,250 00
The Church of the Epiphany:			
1847–50. For the support of the church,	$2,375 00		
1848. To save the church from sale under foreclosure,.....	6,500 00		
			8,875 00
The Church of the Holy Evangelists:			
1847. To save the church from sale under foreclosure, $5,466.10, less proceeds of subsequent sale of Vandewater Street Church, $1,250.64, ...	4,215 46		
1847–55. For support of the church,....	3,975 00		
Paid for the purchase of St. George's church, in Beekman street, now occupied by the Church of the Holy Evangelists, and for charges upon such property, ...		30,660 33	
The estimated value of a release executed by the corporation of Trinity Church, of lots of land belonging to the corporation of St. George's Church, from certain conditions, the release from which formed part of the consideration upon which the latter church agreed with Trinity Church to convey to such person as she should appoint, the property occupied by St. George's Church, in Beekman street. This property was, after such			

agreement, by appointment of the corporation of Trinity Church, conveyed to the Church of the Holy Evangelists, without payment of any consideration by them, but upon their executing a mortgage upon such property to Trinity Church for $50,000, the amount agreed upon between them,.....	$25,000 00		
			$63,850 79
The Church of St. Mary's :			
1836–55. For support of the church,..			7,789 13
Free Church in East Broadway :			
1855. Towards the support of the church,			100 00
The Church of the Messiah :			
1838–55. For the support of the church,	$2,550 00		
1850. To aid in fitting up place of worship,.....	100 00		
			2,650 00
The Church of St. Barnabas, (the first church of that name,) :			
1850–53. For its support,.....			300 00
The Second Church of St. Barnabas :			
1853–54. For support of the church,..			400 00
The Church of the Holy Martyr's :			
1848–50. For the support of the church,	$1,700 00		
1850–55. In annual payments of $200 each, to enable the church to pay the expense of altering the church, and of increasing the number of sittings,.....	1,000 00		
			2,700 00
The Church of St. Judas :			
1850–53. For the support of the church,			800 00
The Church of the Holy Innocents :			
1853–55. For the support of the church,	$650 00		

1855.	To pay an assessment upon the church, ...	$200 00	
"	To save the church from sale under foreclosure, ...	590 57	
"	For the support of the church, ..	750 00	
			$2,190 57
	The Church of St. John, the Evangelist:		
1853–55.	For the support of the church,		400 00
	The Church of St. Ann's for deaf mutes:		
1853–55.	For the support of the church,		1,300 00
	The Church of All Angels:		
1850–55.	For the support of the church,		1,050 00
	The Church of St. Matthews:		
1847–55.	For the support of the church,		2,925 00
	The Church of St. Simons:		
1845–55.	For the support of the church,		2,000 00
			$172,590 92

Within the five years last past this corporation has made the gifts to other churches in the city of New-York, not free, and for the purposes next hereinafter stated:

Church of St. Stephens for its support,			.....	$2,000 00
"	St. James,	"	"	1,800 00
Zion Church,		"	"	1,200 00
Church of St. Andrews,		"	"	1,200 00
"	St. Clements,	"	"	1,600 00
"	St. Lukes,	"	"	4,500 00
"	All Saints,	"	"	2,000 00
"	St. Phillips,	"	"	1,600 00
"	St. Peters,	"	"	1,600 00
"	The Holy Apostles,	"	.....	1,500 00
"	St. George, the Martyr,	"	.....	300 00
"	The Annunciation,	"	.....	26,800 00
"	The Advent,	"	.....	750 00
"	The Intercession,	"	.....	400 00

Church of	Emanuel, for its support,	.....	$6,718 00
"	St. John, the Baptist,	"	800 00
"	The Transfiguration,	"	2,750 00
"	St. Timothy,	"	400 00
"	The Redeemer,	"	500 00
			$58,418 00

Together with the assumption, by this corporation, of the payment of the interest of $58,418 and $9,000, for which this church is mortgaged.

No other amounts have been given or expended by this corporation for other churches situated in the city of New-York during the specified period.

Within the same period the vestry under authority derived from an act of the Legislature, have purchased land in Twenty-fifth street in the city of New-York, and have built thereon a chapel styled Trinity Chapel, at a cost for building and site of $227,164,82.

It is now finished, and divine service has been performed therein since the 17th April, 1855.

During the same period Trinity Church has made the grants and appropriations to other churches situated in different parts of the State out of the city of New-York, which are next stated, that is to say,

To churches in	Albany	county, ...	$1,000 00
"	Chautauque	"	1,050 00
"	Columbia	"	6,250 00
"	Dutchess	"	1,900 00
"	Greene	"	1,800 00
"	Herkimer	"	300 00
"	Jefferson	"	600 00
"	Kings	"	13,400 00
"	Livingston	"	400 00
"	Madison	"	200 00
"	Oneida	"	3,500 00
"	Onondaga	"	250 00

To churches in	Orange	county,	.....	$2,400 00
"	Oswego	"	.....	200 00
"	Otsego	"	.....	250 00
"	Queens	"	.....	2,000 00
"	Rensselaer	"	.....	1,500 00
"	Richmond	"	.....	1,200 00
"	Rockland	"	.....	300 00
"	Schoharie	"	.....	500 00
"	St. Lawrence	"	.....	712 50
"	Saratoga	"	.....	1,000 00
"	Suffolk	"	.....	1,500 00
"	Sullivan	"	.....	600 00
"	Tioga	"	.....	490 00
"	Ulster	"	.....	300 00
"	Washington	"	.....	1,700 00
"	Wayne	"	.....	1,550 00
"	Westchester	"	.....	2,000 00
				$48,852 50

During the three years preceding the 13th day of April, 1855, Trinity Church has made the following and no other appropriations to institutions of charity, benevolence and learning in the city of New-York:

Grants of burial plots in Trinity Cemetery.

To the orphan asylum a plot containing 621 square feet.

To the society for the relief of aged and indigent females, a plot containing 300 square feet.

To the Protestant Episcopal Mutual Benefit Society, a plot containing 600 square feet.

To Christ Church, a plot to be selected.

To the Orphans' Home, a plot to be selected.

The inquiry of the Senate relates to a time when the proceeds of sales of land have been in a great measure required for the purpose of affording increased church accommodation for the

congregations of Trinity Church, and when the expense of maintaining and performing the manifold offices and duties connected with such a charge as falls upon this church has greatly increased. But the following condensed statement will lead to a just estimate of the unvarying policy, governed by which this corporation has from an early day continually dispensed abroad the property with which it was endowed.

From the year 1790 to the 15th February, 1855, Trinity Church gave and appropriated

		In lots.	In money.
To churches in the city of New-York, not free,.....		122	$493,125 70
"	Albany county,.....		18,000 00
"	Allegany "		800 00
"	Cattaraugus "		1,350 00
"	Cayuga "		2,750 00
"	Chatauque "		820 00
"	Chemung "		800 00
"	Chenango "		2,300 00
"	Columbia "		7,000 00
"	Cortland "		500 00
"	Delaware "		1,650 00
"	Dutchess "		21,150 00
"	Essex "		400 00
"	Franklin "		400 00
"	Fulton "		400 00
"	Genesee "		1,500 00
"	Greene "		10,300 00
"	Herkimer "		7,250 00
"	Jefferson "		2,700 00
"	Kings "	2	30,410 00
"	Livingston "		2,500 00
"	Madison "		500 00
"	Monroe "		4,700 00
"	Montgomery "		2,000 00
"	Niagara "		1,600 00
"	Oneida "	4	2,100 00

	In lots.	In money.
To churches in Onondaga county,.....		$5,950 00
" Ontario "		4,050 00
" Orleans "		2,500 00
" Orange "		6,975 00
" Oswego "		4,025 00
" Otsego "		3,070 00
" Putnam "		1,800 00
" Queens "	13	11,550 00
" Rensselaer "		9,250 00
" Richmond "		5,500 00
" Steuben "		1,000 00
" Seneca "		2,050 00
" St. Lawrence "		5,750 00
" Saratoga "		4,523 80
" Schenectady "		4,100 00
" Suffolk "		3,100 00
" Sullivan "		1,500 00
" Tioga "		1,270 00
" Tompkins "		350 00
" Ulster "		3,000 00
" Washington "		2,950 00
" Wayne "		3,450 00
" Westchester "	5	15,900 00
" Wyoming "		300 00
" Yates "		1,000 00
Lots,.....	146	$721,419 00

and from the year 1748 to this time they have given

For the general purposes and advancement of the church and of religion,	35 lots and		$19,652 00
For general and public purposes,....	17 "	"	750 00
To institutions of learning and charity schools,.....	115 "	"	65,776 87
And leased for 63 years, free of rent,.	5 "		
For the support of the Episcopate and and church organizations and societies,.....			72,988 58

Annuities and donations to aged and infirm clergymen, and to widows and families of deceased clergymen,		126,934 38
Being a total for the purposes last enumerated, of.....	172 lots and	$286,111 83

Thus has this corporation administered its estate, freely granting it for the spread of religion in all parts of the State for the support of ministers of the gospel, and the succor of their families, and for the aid and endowment of institutions of learning. It has for these purposes paid and appropriated in money $1,287,392.75, and given a large numer of lots of land; by these means diminishing its property to one-third its original extent.

The vestry have, in this communication, ventured to give a more complete statement of the condition and acts of the church than is expressly called for by the resolutions of your honorable body, because they deemed it expedient for the more perfect justification of this corporation, and because they were confident that the Senate would receive it as an answer more satisfactory than a more limited return.

WM. E. DUNSCOMB, *Comptroller.*

(SCHEDULE A.)—THE ASTOR LEASE.

[The lease, commonly known as the Burr or Astor lease, granted in 1767 to Abraham Mortier, for 99 years, at an annual rent of $269 per annum. The term expires on the 1st of May, 1866, except those lots noted as "Pepper Corn," which have been surrendered and now leases for the same respectively granted expiring on the 1st of May, 1864, at a Pepper Corn rent with the usual covenants of renewal containing three hundred and fifty-six lots of the ordinary size of twenty-five by one hundred feet, but subdivided by the lessee into a larger number of lots of a smaller and irregular size, as contained in the following schedule.]

House, No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
223	Spring, ...	North,	Varick and McDougal,	$9,000	$1,600	$7,400	For the whole of Burr lease as above stated, ...	As above stated,	$3,634 19
225	do	do	do	4,000	1,600	2,400	do do	do	1,178 66
227	do	do	do	4,300	1,700	2,600	do do	do	1,276 88
229	do	do	do	4,300	1,800	2,500	do do	do	1,227 77
231	do	do	Varick and Hudson,	4,300	1,600	2,700	do do	do	1,325 99
233	do	do	do	4,300	1,600	2,700	do do	do	1,325 99
235	do	do	do	4,300	1,600	2,700	do do	po	1,325 99
237	do	do	do	4,300	1,600	2,700	do do	do	1,325 99
239	do	do	do	6,000	3,900	2,100	do do	do	1,031 32
241	do	do	do	6,000	2,400	3,600	do do	do	1,767 99
243	do	do	do	4,500	1,700	2,800	do do	do	1,375 10
245	do	do	do	5,000	2,200	2,800	do do	do	1,375 10
247	do	do	do	4,000	1,400	2,600	do do	do	1,276 88
249	do	do	do	4,000	1,400	2,600	do do	do	1,276 88
251	do	do	do	10,000	6,700	3,300	do do ...	do	1,620 65
253	do	do	do	4,300	2,000	2,300	do do	do	1,129 55
255	do	do	do	2,500	1,800	700	do do	do	343 77
257	do	do	do	3,300	1,800	1,500	do do	do	736 66
259	do	do	do	4,000	1,900	2,100	do do	do	1,031 32
261	do	do	do	4,500	1,100	3,400	do do	do	1,669 76
263	do	do	Hudson and Greenwich,	3,600	800	2,800	do do	do	1,375 10
265	do	do	do	6,000	3,100	2,900	do do	do	1,424 21

SCHEDULE A.—(CONTINUED.)

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
267	Spring, ...	North,	Hudson and Greenwich,	$4,000	1,300	2,700	For the whole of Burr lease as above stated, ...	As above stated,	$1,325 99
269	do	do	do do	6,000	2,800	3,200	do do	do	1,571 54
271	do	do	do do	6,000	2,800	3,200	do do	do	1,571 54
				$122,500	$52,200	$70,300			$34,524 82
275	do	do	do do	$6,500	$3,300	$3,200	do do	do	1,571 54
277	do	do	do do	6,500	2,800	3,700	do do	do	1,817 10
279	do	do	do do	6,600	3,000	3,600	do do	do	1,767 99
281	do	do	do do	4,200	1,200	3,000	do do ...	do	1,473 32
283	do	do	do do	4,200	1,900	2,300	do do	do	1,129 55
285	do	do	do do	4,500	2,000	2,500	do do	do	1,227 77
287	do	do	do do	4,500	2,200	2,300	do do	do	1,129 55
289	do	do	do do	6,000	3,900	2,100	do do	do	1,031 32
291	do	do	do do	6,000	2,200	3,800	do do	do	1,866 21
295	do	do	do do	6,000	2,000	4,000	do do	do	1,964 43
297	do	do	do do	6,500	3,300	3,200	do do	do	1,571 54
299	do	do	do do	6,900	3,600	3,300	do do	do	1,620 65
301	do ...	do	do do	6,900	3,600	3,300	do do	do	1,620 65
303	do	do	do do	6,000	2,600	3,400	do do	do	1,669 76
305	do	do	do do	5,000	600	,400	do do	do	2,160 87
309	do	do	do do	4,500	1,000	3,500	do do	do	1,718 87
311	do	do	do do	4,500	1,400	3,100	do do	do	1,522 43
313	do	do	do do	4,000	1,300	2,700	do do	do	1,325 99
				$99,300	$41,900	$57,400			$28,189 54

6	Vandam,	....	South,	Varick and McDougal,	..	3,500	1,600	1,900	do	do	....	do	933	10
8	do	....	do	do	do ..	5,000	1,700	3,300	do	do	....	do	1,620	65
10	do	....	do	do	do ..	4,000	1,700	2,300	do	do	....	do	1,129	55
12	do	....	do	do	do ..	3,800	1,900	1,900	do	do	....	do	933	10
14	do	....	do	do	do ..	3,800	1,900	1,900	do	do	....	do	933	10
16	do	....	do	do	do ..	4,200	2,400	1,800	do	do	....	do	883	99
18	do	....	do	do	do ..	4,200	2,400	1,800	do	do	....	do	883	99
20	do	....	do	do	do ..	4,600	2,600	2,000	do	do	....	do	982	21
22	do	....	do	do	do ..	4,400	1,900	2,500	do	do	....	do	1,227	77
24	do	....	do	do	do ..	5,100	2,600	2,500	do	do	....	do	1,227	77
26	do	....	do	do	do ..	4,500	2,250	2,250	do	do	....	do	1,104	99
28	do	....	do	do	do ..	4,500	2,700	1,800	do	do	....	do	883	99
30	do	....	do	do	do ..	4,500	2,500	2,000	do	do	....	do	982	21
32	do	....	do	do	do ..	3,500	1,100	2,400	do	do	....	do	1,178	66
34	do	....	do	do	do ..	3,800	1,500	2,300	do	do	....	do	1,129	55
36	do	....	do	do	do ..	5,000	2,700	2,300	do	do	....	do	1,129	55
38	do	....	do	do	do ..	4,500	2,500	2,000	do	do	....	do	982	21
40	do	....	do	do	do ..	2,600	1,300	1,300	do	do	....	do	638	44
44	do	....	do	Varick and Hudson,	....	3,000	1,400	1,600	do	do	....	do	785	77
46	do	....	do	do	do	2,700	900	1,800	do	do	....	do	883	99
48	do	....	do	do	do	4,800	1,900	2,900	do	do	....	do	1,424	21
50	do	....	do	do	do	4,500	2,000	2,500	do	do	....	do	1,227	77
						$90,500	$43,450	$47,050					$23,106	57
52	do	....	do	do	do	$4,500	$2,000	$2,500	do	do	....	do	$1,227	77
54	do	....	do	do	do	4,500	1,900	2,600	do	do	....	do	1,276	88
56	do	....	do	do	do	3,500	1,000	2,500	do	do	....	do	1,227	77
58	do	....	do	do	do	3,500	1,000	2,500	do	do	....	do	1,227	77
60	do	....	do	do	do	3,500	900	2,600	do	do	....	do	1,276	88
62	do	....	do	do	do	3,500	900	2,600	do	do	....	do	1,276	88
64	do	....	do	do	do	4,900	1,000	3,900	do	do	....	do	1,915	32
66	do	....	do	do	do	3,700	700	3,000	do	do	....	do	1,473	32
68	do	....	do	do	do	4,500	1,300	3,200	do	do	....	do	1,571	54
70	do	....	do	do	do	3,500	800	2,700	do	do	....	do	1,325	99
80	do	....	do	Hudson and Greenwich,		3,800	2,000	1,800	do	do	....	do	883	99
82	do	....	do	do	do	4,300	1,100	3,200	do	do	....	do	1,571	54
84	do	....	do	do	do	3,800	1,000	2,800	do	do	....	do	1,375	10
86	do	....	do	do	do	4,500	1,800	2,700	do	do	....	do	1,325	99
88	do	....	do	do	do	4,000	1,900	2,100	do	do	....	do	1,031	32
90	do	....	do	do	do	4,500	1,700	2,800	do	do	....	do	1,375	10

SCHEDULE A.—(CONTINUED.)

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
92	Vandam, ...	South,	Hudson and Greenwich,	$3,500	$1,200	$2,300	For the whole of Burr lease as above stated, ...	As above stated,	$1,129 55
94	do	do	do do	3,500	1,000	2,500	do do	do	1,227 77
96	do	do	do do	2,300	900	1,400	do do	do	687 55
98	do	do	do do	2,000	500	1,500	do do	do	736 66
81	do	North,	do do	2,000	500	1,500	do do	do	736 66
75	do	do	Varick and Hudson, ...	4,000	1,100	2,900	do do	do	1,424 21
73	do	do	do do	3,200	500	2,700	do do	do	1,325 99
71	do	do	do do	3,700	900	2,800	do do	do	1,375 10
69	do	do	do do	3,500	3,000	2,500	do do	do	1,227 77
67	do	do	do do	3,300	1,600	1,700	do do	do	834 88
65	do	do	do do	3,500	1,500	2,000	do do	do	982 21
63	do	do	do do	4,400	2,100	2,300	do do	do	1,129 55
61	do	do	do do	3,000	800	2,200	do do	do	1,080 44
59	do	do	do do	7,000	4,600	2,400	do do	do	1,178 66
57	do	do	do do	7,000	4,600	2,400	do do	do	1,178 66
55	do	do	do do	3,600	1,800	1,800	do do	do	883 99
53	do	do	do do	4,300	2,200	2,100	do do	do	1,031 32
51	do	do	do do	4,300	2,200	2,100	do do	do	1,031 32
45	do	do	Varick and McDougal, ..	4,500	2,400	2,100	do do	do	1,031 32
43	do	do	do do ..	4,000	2,400	1,600	do do	do	785 77
41	do	do	do do ..	4,000	2,400	1,600	do do	do	785 77
39	do	do	do do ..	4,200	2,600	1,600	do do	do	785 77
37	do	do	do do ..	4,000	2,500	1,500	do do	do	736 66
35	do	do	do do ..	5,000	2,600	2,400	do do	do	1,178 66

33	do	....	do	do	do	..	5,000	2,500	2,500	do	do	....	do	1,408	89
31	do	....	do	do	do	..	5,000	3,000	2,000	do	do	....	do	*982	21
										do	do	....	do		
							$170,300	$72,400	$97,900	do	do	....	do	$48,260	50
										do	do	....	do		
29	do	....	do	do	do	..	$4,000	$2,200	$1,800	do	do	....	do	$883	99
27	do	....	do	do	do	..	4,000	2,200	1,800	do	do	....	do	*1,014	40
25	do	....	do	do	do	..	4,000	2,200	1,800	do	do	....	do	883	99
23	do	....	do	do	do	..	4,000	2,300	1,700	do	do	....	do	834	88
21	do	....	do	do	do	..	5,000	2,700	2,300	do	do	....	do	1,129	55
19	do	....	do	do	do	..	5,500	2,500	3,000	do	do	....	do	1,473	32
17	do	....	do	do	do	..	4,000	2,100	1,900	do	do	....	do	933	10
15	do	....	do	do	do	..	4,000	1,600	2,400	do	do	....	do	1,178	66
13	do	....	do	do	do	..	4,000	2,000	2,000	do	do	....	do	982	21
†	do	....	do	do	do	..	1,000	.....	1,000	do	do	....	do	491	11
11	do	....	do	do	do	..	4,000	2,200	1,800	do	do	....	do	883	99
9	do	....	do	do	do	..	4,500	2,300	2,200	do	do	....	do	1,080	44
7	do	....	do	do	do	..	3,500	2,000	1,500	do	do	....	do	736	66
										do	do	....	do		
							$51,500	$26,300	$25,200	do	do	...	do	$12,506	30
										do	do	....	do		
16	Charlton	....	South,	do	do	..	$3,000	$1,700	$1,300	do	do	....	do	$638	44
18	do	....	do	do	do	..	3,000	1,600	1,400	do	do	....	do	687	55
20	do	....	do	do	do	..	3,000	1,600	1,400	do	do	....	do	687	55
22	do	....	do	do	do	..	3,000	1,600	1,400	do	do	....	do	687	55
24	do	....	do	do	do	..	3,000	1,600	1,400	do	do	....	do	687	55
26	do	....	do	do	do	..	4,000	2,000	2,000	do	do	....	do	982	21
28	do	....	do	do	do	..	4,000	2,000	2,000	do	do	....	do	982	21
62	do	....	do	Varick and Hudson,		....	4,500	1,900	2,600	do	do	....	do	1,276	88
64	do	....	do	do	do	....	4,500	1,700	2,800	do	do	....	do	1,375	10
66	do	....	do	do	do	....	4,000	1,700	2,300	do	do	....	do	1,129	55
68	do	....	do	do	do	....	3,800	1,500	2,300	do	do	....	do	1,129	55
70	do	....	do	do	do	....	4,500	2,400	2,100	do	do	....	do	1,031	32
72															
74	do	....	do	do	do	....	4,000	2,000	2,000	do	do	....	do	982	21
76	do	....	do	do	do	....	4,000	2,000	2,000	do	do	....	do	982	21
78	do	....	do	do	do	....	4,000	2,000	2,000	do	do	....	do	982	21
80	do	....	do	do	do	....	5,000	2,700	2,300	do	do	....	do	1,129	55
82	do	....	do	do	do	....	5,000	2,800	2,200	do	do	....	do	1,080	44
84	do	....	do	do	do	....	5,000	2,100	2,900	do	do	....	do	1,424	21

† Rear lot included in 11 and 15.

SCHEDULE A.—(CONTINUED.)

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
86	Charlton	South,	Varick and Hudson, ...	$4,000	$1,700	$2,300	For the whole of Burr lease as above stated, ...	As above stated,	$1,129 55
90	do	do	Hudson and Greenwich,	5,000	2,100	2,900	do do	do	1,424 21
94	do	do	do do	4,000	1,900	2,100	do do	do	1,031 32
96	do	do	do do	3,500	1,500	2,000	do do	do	982 21
111	do	North,	do do	4,700	1,700	3,000	do do	do	1,473 32
109	do	do	do do	4,300	1,600	2,700	do do	do	1,325 99
107	do	do	do do	4,500	1,600	2,900	do do	do	1,424 21
105	do	do	do do	3,500	1,400	2,100	do do	do	1,031 32
				$104,800	$48,400	$56,400			$27,698 42
105½	do	do	do do	$2,500	$1,300	$1,200	do do	do	$589 33
103									
101	do	do	do do	2,800	1,200	1,600	do do	do	785 77
99	do	do	do do	3,500	1,200	2,300	do do	do	1,129 55
97	do	do	do do	3,500	1,500	2,000	do do	do	982 21
95	do	do	do. do	3,500	1,200	2,300	do do	do	1,129 55
93	do	do	do do	2,000	800	1,200	do do	do	589 33
91	do	do	do do	4,500	1,500	3,000	do do	do	1,473 32
89	do	do	Varick and Hudson, ...	5,000	2,600	2,400	do do . .	do	1,178 66
87	do	do	do do	3,000	1,500	1,500	do do	do	736 66
85	do	do	do do	3,000	1,500	1,500	do do	do	736 66
83	do	do	do do	3,500	1,400	2,100	do do	do	1,031 32
81	do	do	do do	4,200	2,100	2,100	do do	do	1,031 32
79	do	do	do do	4,000	1,300	2,700	do do	do	1,325 99
77	do	do	do do	4,000	1,300	2,700	do do	do	1,325 99
75	do	do	do do	4,000	2,000	2,000	do do	do	982 21

73	do	....	do	do	do	....	4,300	2,100	2,200	do	do	....	do	1,080 44
71	do	....	do	do	do	....	4,500	2,100	2,400	do	do	....	do	1,178 66
69	do	....	do	do	do	....	4,000	2,000	2,000	do	do	....	do	982 21
67	do	....	do	do	do	....	3,000	800	2,200	do	do	....	do	1,080 44
63	do	....	do	do	do	....	1,800	800	1,000	do	do	....	do	491 11
61	do	....	do	do	do	....	1,700	800	900	do	do	....	do	442 00
59	do	....	do	do	do	....	1,800	600	1,200	do	do	....	do	589 33
55	do	....	do	Varick and McDougal,		..	4,000	1,500	2,500	do	do	....	do	1,227 77
53	do	....	do	do	do	..	4,200	2,600	1,600	do	do	....	do	785 77
51	do	....	do	do	do	..	4,200	2,600	1,600	do	do	....	do	785 77
49	do	....	do	do	do	..	4,500	2,600	1,900	do	do	....	do	933 10
47	do	....	do	do	do	..	4,500	2,600	1,900	do	do	....	do	933 10
45	do	....	do	do	do	..	4,500	2,600	1,900	do	do	....	do	933 10
43	do	....	do	do	do	..	4,500	2,600	1,900	do	do	....	do	933 10
41	do	....	do	do	do	..	4,500	2,600	1,900	do	do	....	do	933 10
39	do	....	do	do	do	..	5,500	3,100	2,400	do	do	....	do	1,178 66
37	do	....	do	do	do	..	5,500	3,100	2,400	do	do	....	do	*1,352 54
35	do	....	do	do	do	..	4,000	2,200	1,800	do	do	....	do	883 99
33	do	....	do	do	do	..	3,200	1,800	1,400	do	do	....	do	687 55
31	do	....	do	do	do	..	3,200	1,600	1,600	do	do	....	do	785 77
29	do	....	do	do	do	..	3,200	1,800	1,400	do	do	....	do	687 55
27	do	....	do	do	do	..	3,200	1,800	1,400	dd	do	....	do	687 55
25	do	....	do	do	do	..	5,000	2,800	2,200	do	do	....	do	1,080 44
21	do	....	do	do	do	..	6,500	4,000	2,500	do	do	....	do	1,227 77
19	do	....	do	do	do	..	6,500	4,000	2,500	do	do	....	do	1,227 77
17	do	....	do	do	do	..	6,500	4,000	2,500	do	do	....	do	1,227 77
15	do	....	do	do	do	..	6,500	4,000	2,500	do	do	....	do	1,227 77
							$167,800	$85,500	$82,300					$40,592 00
28	King,	.....	South,	do	do	..	$5,000	$3,000	$2,000	do	do	....	do	982 21
30	do	.....	do	do	do	..	5,000	3,000	2,000	do	do	....	do	982 21
32	do	.....	do	do	do	..	5,300	3,200	2,100	do	do	....	do	1,031 32
34	do	.....	do	do	do	..	5,300	3,200	2,100	do	do	....	do	1,031 32
36	do	.....	do	do	do	..	5,000	3,200	1,800	do	do	....	do	883 99
38	do	.....	do	do	do	..	5,000	3,200	1,800	do	do	....	do	883 99
40	do	.....	do	do	do	..	5,000	3,200	1,800	do	do	....	do	883 99
42	do	.....	do	do	do	..	5,000	3,200	1,800	do	do	....	do	883 99
44	do	.....	do	do	do	..	5,000	3,300	1,700	do	do	....	do	834 88
46	do	.....	do	do	do	..	8,500	1,300	2,200	do	do	....	do	1,080 44
48	do	.....	do	do	do	..	4,500	2,500	2,000	do	do	....	do	*1,127 11

SCHEDULE A.—(CONTINUED.)

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
50	King, ...	South,	Varick and McDougal, ..	$4,500	$2,500	$2,000	For the whole of Burr lease as above stated, ...	As above stated,	$982 21
52	do	do	do do ..	5,000	3,200	1,800	do do	do	883 99
54	do	do	do do ..	5,000	3,200	1,800	do do	do	883 99
56	do	do	do do ..	5,000	3,200	1,800	do do	do	883 99
58	do	do	do do ..	5,000	3,200	1,800	do do	do	883 99
60	do	do	do do ..	5,000	3,200	1,800	do do ...	do	883 99
62	do	do	do do ..	4,500	2,800	1,700	do do	do	834 88
64	do	do	do do ..	3,000	1,100	1,900	do do	do	933 10
68	do	do	Varick and Hudson, ...	2,300	1,000	1,300	do do	do	638 44
70	do	do	do do	3,700	1,800	1,900	do do	do	933 10
72	do	do	do do	4,000	1,800	2,200	do do	do	1,080 44
74	do	do	do do	4,000	2,000	2,000	do do	do	982 21
76	do	do	do do	4,000	2,000	2,000	do do	do	982 21
78	}								
80	do	do	do do	3,500	1,700	1,800	do do ...	oo	883 99
82	do	do	do do	3,500	1,700	1,800	do do	do	883 99
84	do	do	do do	4,500	2,300	2,200	do do	do	1,080 44
86	do	do	do do	4,500	2,400	2,100	do do	do	1,031 32
88	do	do	do do	4,000	1,800	2,200	do do	do	1,080 44
90	do	do	do do	2,000	800	1,200	do do	do	589 33
90½	do	do	do do	2,000	800	1,200	do do	do	589 33
96	do	do	Hudson and Greenwich,	2,000	900	1,100	do do	do	540 22
98	do	do	do do	2,500	1,300	1,200	do do	do	589 33
100	do	do	do do	3,000	1,100	1,900	do do	do	933 10
102	do	do	do do	5,000	2,900	2,100	do do	do	1,031 32
104	do	do	do do	5,000	2,900	2,100	do do	do	1,031 32

106													
108	do	.....	do	do	do	4,500	37,000	8,000	do	do	....	do	3,928 86
110													
112	do	.....	do	do	do	1,000	300	700	do	do	....	do	343 77
114	do	.....	do	do	do	1,500	900	600	do	do	....	do	294 66
						$197,600	$122,100	$75,500					$37,223 41
113	do	.....	North,	do	do	$2,500	$600	$1,900	do	do	....	do	$933 10
111													
109	do	.....	do	do	do	3,300	1,200	2,100	do	do	....	do	1,031 32
107	do	.....	do	do	do	3,300	1,200	2,100	do	do	....	do	1,031 32
105	do	.....	do	do	do	3,500	1,900	1,600	do	do	....	do	785 77
103	do	.....	do	do	do	3,500	2,000	1,500	do	do	....	do	736 66
101	do	.....	do	do	do	3,500	2,000	1,500	do	do	....	do	736 66
99	do	.....	do	do	do	3,500	2,000	1,500	do	do	....	do	736 66
97	do	.....	do	do	do	3,400	2,000	1,400	do	do	....	do	687 55
	do	.....	do	do	do	7,000	3,500	3,500	do	do	....	do	1,718 87
89	do	.....	do	Varick and Hudson, ...		4,000	1,300	2,700	do	do	....	do	1,325 99
87													
85	do	.....	do	do	do	3,500	1,500	2,000	do	do	....	do	982 21
83	do	.....	do	do	do	6,300	3,100	3,200	do	do	....	do	1,571 54
81	do	.....	do	do	do	6,000	3,800	2,200	do	do	....	do	1,080 44
79	do	.....	do	do	do	5,300	3,200	2,100	do	do	....	do	1,031 32
73	do	.....	do	do	do	5,000	2,800	2,200	do	do	....	do	1,080 44
71	do	.....	do	do	do	5,000	3,300	1,700	do	do	....	do	834 88
69	do	.....	do	do	do	4,000	1,500	2,500	do	do	....	do	1,227 77
55	do	.....	do	Varick and McDougal, ..		4,000	2,100	1,900	do	do	....	do	933 10
53	do	.....	do	do	do ..	5,000	2,600	2,400	do	do	....	do	1,178 66
51	do	.....	do	do	do ..	4,000	2,000	2,000	do	do	....	do	982 21
49	do	.....	do	do	do ..	5,000	2,700	2,300	do	do	....	do	1,129 55
47	do	.....	do	do	do ..	4,100	1,900	2,200	do	do	....	do	1,080 44
45	do	.....	do	do	do ..	3,600	1,300	2,300	do	do	....	do	1,129 55
43	do	.....	do	do	do ..	5,000	2,600	2,400	do	do	....	do	1,178 66
41	do	.....	do	do	do ..	4,000	2,000	2,000	do	do	....	do	982 21
39	do	.....	do	do	do ..	4,700	2,700	2,000	do	do	....	do	982 21
37	do	.....	do	do	do ..	4,700	2,700	2,000	do	do	....	do	982 21
35	do	.....	do	do	do ..	4,300	2,200	2,100	do	do	....	do	1,031 32
33	do	.....	do	do	do ..	4,000	2,300	1,700	do	do	....	do	834 88
31	do	.....	do	do	do ..	4,800	2,900	1,900	do	do	....	do	933 10

SCHEDULE A.—(CONTINUED.)

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
29	King, ...	North,	Varick and McDougal,..	$4,300	$2,400	$1,900	For the whole of Burr lease as above stated,....	As above stated,	$933 10
27	do	do	do do ..	4,000	1,900	2,100	do do	do	1,031 32
				$138,100	$71,200	$66,900			$32,855 02
28	Hamersley,..	South,	do do ..	$4,500	$2,300	$2,200	do do	do	$1,080 44
30	do ..	do	do do ..	4,100	2,000	2,100	do do	do	1,031 32
32	do ..	do	do do ..	4,000	2,500	1,500	do do	do	736 66
34	do ..	do	do do ..	4,000	2,500	1,500	do do	do	736 66
36	do ..	do	do do ..	4,000	2,500	1,500	do do	do	736 66
36½	do ..	do	do do ..	4,000	2,500	1,500	do do	do	736 66
38	do ..	do	do do ..	3,500	1,600	1,900	do do	do	933 10
				$28,100	$15,900	$12,200			$5,991 50
40	do ..	do	do do ..	$5,500	$3,500	$2,000	do do	do	$982 21
42	do ..	do	do do ..	4,500	2,600	1,900	do do	do	933 10
44	do ..	do	do do ..	4,500	2,600	1,900	do do	do	933 10
46	do ..	do	do do ..	4,000	2,300	1,700	do do	do	834 88
48	do ..	do	do do ..	4,000	2,300	1,700	do do	do	834 88
50	do ..	do	do do ..	4,000	2,300	1,700	do do	do	834 88
52	do ..	do	do do ..	4,000	2,300	1,700	do do	do	834 88
54	do ..	do	do do ..	4,000	2,400	1,600	do do	do	785 77
56	do ..	do	do do ..	4,500	3,100	1,400	do do	do	687 55
58	do ..	do	do do ..	4,200	1,900	2,300	do do	do	1,129 55
60	do ..	do	do do ..	2,500	1,000	1,500	do do	do	736 66
66	do ..	do	Varick and Hudson, ...	3,250	1,900	1,850	do do	do	908 55

68	do ..	do	do	do ..	2,850	1,400	1,450	do	do	....	do	712	10
70	do ..	do	do	do ..	3,400	1,400	2,000	do	do	....	do	982	21
Rear	do ..	do	do	do ..	1,000	500	500	do	do	....	do	245	55
Rear	do ..	do	do	do ..	1,000	500	500	do	do	....	do	245	55
72	do ..	do	do	do ..	3,100	1,300	1,800	do	do	....	do	883	99
74	do ..	do	do	do ..	3,100	1,300	1,800	do	do	....	do	883	99
76	do ..	do	do	do ..	3,100	1,300	1,800	do	do	....	dv	883	99
78	do ..	do	do	do ..	3,100	1,300	1,800	do	do	....	do	883	99
80	do ..	do	do	do ..	3,100	1,300	1,800	do	do	....	co	883	99
82	do ..	do	do	do ..	4,000	2,000	2,000	do	do	....	do	982	21
84	do ..	do	do	do ..	3,200	1,200	2,000	do	do	....	do	982	21
86	do ..	do	do	do ..	3,500	1,500	2,000	do	do	....	do	982	21
88	do ..	do	do	do ..	3,500	1,700	1,800	do	do	....	do	883	99
90½	do ..	do	Hudson and Greenwich,		4,000	1,700	2,300	do	do	....	do	1,129	55
90½	do ..	do	do	do	4,000	2,300	1,700	do	do	....	do	834	88
92	do ..	do	do	do	3,500	2,000	1,500	do	do	....	do	736	66
94	do ..	do	do	do	3,500	2,000	1,500	do	do	....	do	736	66
96	do ..	do	do	do	3,500	2,000	1,500	do	do	....	do	736	66
98	do ..	do	do	do	3,500	2,000	1,500	do	do	....	do	736	66
100	do ..	do	do	do	3,500	2,000	1,500	do	do	....	do	736	66
102	do ..	do	do	do	3,500	2,000	1,500	do	do	....	do	736	66
104	do ..	do	do	do	3,500	2,000	1,500	do	do	....	do	736	66
106	do ..	do	do	do	3,500	2,000	1,500	do	do	....	do	736	66
108	do ..	do	do	do	3,500	2,200	1,300	do	do	....	do	638	44
					$126,400	$66,600	$59,800					$29,368	14
140	Varick.....	East,	Spring and Vandam, ...		$1,600	$150	$1,450	do	do	....	do	712	10
142	do	do	do	do	2,000	150	1,850	do	do	....	do	908	55
142½	do	do	do	do	800	150	650	do	do	....	do	319	22
144	do	do	do	do	4,700	3,100	1,600	do	do	....	do	785	77
146	do	do	do	do	2,500	800	1,700	do	do	....	do	*958	04
					$11,600	$4,350	$7,250					$3,683	68
148	do	do	do	do	$3,000	$1,300	$1,700	do	do	....	do	$834	88
150	do	do	do	do	2,000	900	1,100	do	do	....	do	540	22
152	do	do	do	do	2,000	900	1,100	do	do	....	do	540	22
154	do	do	do	do	3,000	1,400	1,600	do	do	....	do	785	77
160	do	do	Vandam and Charlton,		1,500	700	800	do	do	....	do	392	89
162	do	do	do	do	4,000	1,200	2,800	do	do	....	do	1,375	10

SCHEDULE A.—(CONTINUED.)

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
164	Varick.....	East,	Vandam and Charlton,..	$3,500	$600	$2,9 0	For the whole of Burr lease as above stated,....	As above stated,	$1,424 21
166	do	do	do do ..	5,000	3,400	1,600	do do	do	785 77
168	do	do	do do ..	5,000	3,400	1,600	do do	do	785 77
170	do	do	do do ..	5,000	2,900	2,100	do do	do	1,031 32
172	do	do	do do ..	3,500	2,900	2,600	do do	do	1,276 88
176	do	do	Charlton and King,....	1,800	150	1,650	do do	do	810 32
178	do	do	do do	3,200	1,800	1,400	do do	do	687 55
180									
182	do	do	do do	3,200	1,700	1,500	do do	do	736 66
184	do	do	do do	2,000	800	1,200	do do	do	589 33
186	do	do	do do	3,000	400	2,600	do do	do	1,276 88
190	do	do	King and Hamersley,..	3,000	1,200	1,800	do do	do	883 99
192	do	do	do do ..	2,200	800	1,400	do do	do	687 55
192½	do	do	do do ..	2,000	500	1,500	do do	do	736 66
192¼	do	do	do do ..	2,200	700	1,500	do do	do	736 66
194	do	do	do do ..	2,800	1,100	1,700	do do	do	834 88
196	do	do	do do ..	2,500	900	1,600	do do	do	785 77
198	do	do	do do ..	2,300	800	1,500	do do	do	736 66
200	do	do	do do ..	2,200	900	1,300	do do	do	638 44
202	do	do	do do ..	2,200	900	1,300	do do	do	638 44
204	do	do	do do ..	2,500	1,150	1,350	do do	do	662 99
141	do	West,	Spring and Vandam,..	1,600	200	1,400	do do	do	687 55
143	do	do	do do ..	1,600	300	1,300	do do	do	638 44
145	do	do	do do ..	1,300	200	1,100	do do	do	540 22
147	do	do	do do ..	1,600	200	1,400	do do	do	687 55
149	do	do	do do ..	1,600	200	1,400	do do	do	687 55
165	do	do	Vandam and Charlton,..	2,000	1,400	600	do do	do	294 66

171	do	do	Charlton and King, ...	2,500	1,100	1,400	do	do	....	do	687 55
173	do	do	do do	1,900	1,000	900	do	do	....	do	442 00
175	do	do	do do	1,900	900	1,000	do	do	....	do	491 11
177	do	do	do do	2,000	900	1,100	do	do	....	do	540 22
179	do	do	do do	2,300	1,000	1,300	do	do	....	do	638 44
181½	do	do	do do	2,500	1,200	1,300	do	do	....	do	638 44
183	do	do	do do	4,100	1,600	2,500	do	do	....	do	1,227 77
185	do	do	do do	3,500	1,400	2,100	do	do	....	do	1,031 32
187	do	do	do do	4,000	2,000	2,000	do	do	....	do	982 21
				$111,000	$47,000	$64,000					$31,430 84
189	do	do	King and Hamersley,..	$3,000	$1,400	$1,600	do	do	....	do	785 77
191	do	do	do do ..	2,500	1,100	1,400	do	do	....	do	687 55
193	do	do	do do ..	1,500	.....	1,500	do	do	....	do	736 66
195	do	do	do do ..	1,500	.....	1,500	do	do	....	do	736 66
197	do	do	do do ..	1,800	100	1,700	do	do	....	do	834 88
199	do	do	do do ..	2,200	900	1,300	do	do	....	do	638 44
201	do	do	do do ..	2,000	900	1,100	do	do	....	do	450 22
203	do	do	do do ..	1,900	900	1,000	do	do	....	do	491 11
205	do	do	do do ..	2,500	1,200	1,300	do	do	....	do	638 44
				$18,900	$6,500	$12,400					$6,089 73
308	Hudson, ...	East,	Spring and Vandam,..	$3,000	$1,600	$1,400	do	do	....	do	687 55
310	do	do	do do ..	4,000	2,700	1,300	do	do	....	do	638 44
312	do	do	do do ..	4,000	2,700	1,300	do	do	....	do	638 44
314	do	do	do do ..	6,000	2,300	3,700	dd	do	....	do	1,817 10
316	do	do	do do ..	5,000	2,500	2,500	do	do	....	do	1,227 77
318	do	do	do do ..	6,000	4,000	2,000	do	do	....	do	982 21
320	do	do	do do ..	5,500	700	4,800	do	do	....	do	2,357 31
330	do	do	Vandam and Charlton,..	9,000	5,500	3,500	do	do	....	do	1,718 87
334	do	do	do do ..	6,000	3,300	2,700	do	do	....	do	1,325 99
338	do	do	do do ..	4,000	2,000	2,000	do	do	....	do	984 21
340	do	do	do do ..	4,000	1,800	2,200	do	do	....	do	1,080 44
342	do	do	do do ..	4,500	2,000	2,500	do	do	....	do	1,227 77
344	do	do	do do ..	5,000	1,500	3,500	do	do	....	do	1,718 87
346	do	do	Charlton and King,...	7,000	4,500	2,500	do	do	....	do	1,227 77
348	do	do	do do ..								
354	do	do	do do ..	6,000	1,800	4,200	do	do	....	do	2,062 65
356	do	do	do do..	8,000	5,000	3,000	do	do	....	do	1,473 32

SCHEDULE A.—(CONTINUED.)

House, No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
358	Hudson, ...	East,	Charlton and King, ..	$5,500	$2,000	$3,500	For the whole of Burr lease as above stated, ...	As above stated,	$1,718 87
360	do	do	do do ..	3,500	1,500	2,000	do do	do	982 21
362	do	do	do do ..	4,000	1,800	2,200	do do	do	1,080 44
364	do	do	do do ..	5,000	1,800	3,200	do do	do	1,571 54
366	do	do	King and Hamersley,..	5,000	3,000	2,000	do do	do	982 21
368	do	do	do do ..	3,500	2,200	1,300	do do	do	638 44
370	do	do	do do ..	3,500	2,200	1,300	do do	do	638 44
372	do	do	do do ..	3,500	2,300	3,000	do do	do	1,473 32
374	do	do	do do ..	5,300	2,300	3,000	do do	do	1,473 32
376	do	do	do do ..	4,000	2,100	1,900	do do	do	933 10
378	do	do	do do ..	4,000	2,100	1,900	do do	do	933 10
380	do	do	do do ..	4,500	2,900	1,600	do do	do	785 77
382	do	do	do do ..	5,000	3,300	1,700	do do	do	834 88
384	do	do	do do ..	6,500	2,800	3,700	do do	do	1,817 10
303	do	West,	Spring and Vandam,....	6,500	3,000	3,500	do do	do	1,718 87
				$158,100	$79,200	$78,900			$38,748 32
305	do	do	do do	5,000	2,900	2,100	do do	do	1,031 32
307	do	do	do do	5,000	2,900	2,100	do do	do	1,031 32
309	do	do	do do	5,000	2,900	2,100	do do	do	1,031 32
311	do	do	do do	5,000	2,900	2,100	do do	do	1,031 32
313	do	do	do do	5,800	3,100	2,700	do do	do	1,325 99
315	do	do	do do	4,600	2,600	2,000	do do	do	982 21
317	do	do	do do	5,600	3,100	2,500	do do	do	1,227 77
319	do	do	do do	5,000	2,900	2,100	do do	do	1,031 32
321	do	do	do do	6,000	3,100	2,900	do do	do	1,424 21

323	do	....	do	Vandam and Charlton,	4,500	1,500	3,000	do	do	....	do	1,473	32
325	do	....	do	do do	2,800	1,000	1,800	do	do	....	do	883	99
327	do	....	do	do do	3,800	2,400	1,400	do	do	....	do	687	55
329	do	....	do	do do	3,800	2,400	1,400	do	do	....	do	687	55
331	do	....	do	do do	3,800	2,400	1,400	do	do	....	do	687	55
333	do	....	do	do do	6,000	2,400	3,600	do	do	....	do	1,767	99
335	do	....	do	do do	4,000	1,500	2,500	do	do	....	do	1,227	77
337	do	....	do	do do	4,300	1,800	2,500	do	do	....	do	1,227	77
345	do	....	do	Charlton and King, ..	4,300	2,700	1,600	do	do	....	do	785	77
347	do	....	do	do do ..	4,300	2,700	1,600	do	do	....	do	785	77
349	do	....	do	do do ..	4,300	2,700	1,600	do	do	....	do	785	77
351	do	....	do	do do ..	6,500	3,500	3,000	do	do	....	do	1,473	32
353	do	....	do	do do ..	5,000	1,400	3,600	do	do	....	do	1,767	99
355	do	....	do	do do ..	.....	.....	.....	do	do	....	do		
357	do	....	do	do do ..	3,000	1,000	2,000	do	do	....	do	982	21
359	do	....	do	do do ..	3,000	1,000	2,000	do	do	....	do	982	21
361	do	....	do	do do ..	4,300	1,200	3,100	do	do	....	do	1,522	43
365	do	....	do	King and Hamersley, ..	4,000	2,200	1,800	do	do	....	do	883	99
367	do	....	do	do do ..	4,000	2,200	1,800	do	do	....	do	883	99
369	do	....	do	do do ..	4,000	2,200	1,800	do	do	...	do	883	99
371	do	....	do	do do ..	9,000	4,000	5,000	do	do	....	do	2,455	54
373	do	....	do	do do ..	.....	.....	.....	do	do	....	do		
375	do	....	do	do do ..	4,000	2,200	1,800	do	do	....	do	883	99
377	do	....	do	do do ..	4,000	2,200	1,800	do	do	....	do	883	99
379	do	....	do	do do ..	4,000	2,200	1,800	do	do	....	do	883	99
381	do	....	do	do do ..	4,000	2,200	1,800	do	do	....	do	883	99
383	do	....	do	do do ..	4,000	2,200	1,800	do	do	....	do	883	99
385	do	....	do	do do	4,500	2,300	2,200	do	do	....	do	1,080	44
					$160,200	$81,900	$78,300					$38,453	64
515	Greenwich, ..		East,	Spring and Vandam, ..	$6,000	$1,800	$4,200	do	do	....	do	$2,062	65
517	do ..		do	do do ..	4,500	1,600	2,900	do	do	....	do	1,424	21
519	do ..		do	do do ..	7,000	4,800	2,200	do	do	....	do	1,080	44
521	do ..		do	do do ..	5,000	1,800	3,200	do	do	....	do	1,571	54
					$22,500	$10,000	$12,500					$6,138	84

SCHEDULE A.—(CONTINUED.)

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
523	Greenwich,..	East,	Spring and Vandam, ..	$5,500	$2,500	$3,000	For the whole of Burr lease as above stated,....	As above stated,	$1,473 32
525	do ..	do	do do ..	5,800	3,000	2,800	do do	do	1,375 10
527	do ..	do	do do ..	5,500	1,800	3,700	do do	do	*2,085 16
529	do ..	do	do do ..	4,000	1,400	2,600	do do	do	1,276 88
531	do ..	do	do do ..	5,000	1,400	3,600	do do	do	1,767 99
539	do ..	do	Vandam and Charlton,	5,500	2,600	2,900	do do	do	1,424 21
541	do ..	do	do do	6,000	2,000	4,000	do do	do	1,964 43
543	do ..	do	do do	6,000	2,900	3,100	do do	do	1,522 43
547	do ..	do	do do	2,700	700	2,000	do do	do	982 21
549	do ..	do	do do	2,700	700	2,000	do do	do	982 21
551	do ..	do	do do	3,500	1,300	2,200	do do	do	1,080 44
553	do ..	do	do do	4,000	1,900	2,100	do do	do	1,031 32
555	do ..	do	do do	5,500	2,600	2,900	do do	do	1,424 21
557	do ..	do	Charlton and King, ..	5,000	1,600	3,400	do do	do	1,669 76
561	do ..	do	do do ..	3,700	1,100	2,600	do do	do	1,276 88
563	do ..	do	do do ..	3,500	1,300	2,200	do do	do	1,080 44
565	do ..	do	do do ..	5,000	2,500	2,500	do do	do	1,227 77
569	do ..	do	do do ..	2,500	.....	2,500	do do	do	1,227 77
571	do ..	do	do do ..	3,000	500	2,500	do do	do	1,227 77
573	do ..	do	King and Hamersley, ..	3,000	600	2,400	do do	do	1,178 66
573½	do ..	do	do do ..	2,000	400	1,600	do do	do	785 77
575	do ..	do	do do ..	2,000	800	1,200	do do	do	589 33
577	do ..	do	do do ..	4,000	2,100	1,900	do do	do	933 10
581	do ..	do	do do ..	4,000	1,200	2,800	do do	do	1,375 10
583	do ..	do	do do ..	5,000	2,800	2,200	do do	do	1,080 44

585	do	..	do	do	do	..	5,300	2,100	3,200	do	do	....	do	1,571 54
587	dd	..	do	do	do	..	4,000	1,600	2,400	do	do	....	do	$1,178 66
							$113,700	$43,400	$70,300					$34,792 90
465							$1,892,900	$918,300	$974,600					$479,654 17

* Pepper Corn Leases.

RECAPITULATION.

The present value of the reversions of 6 lots in Pepper Corn leases expiring 1st of May, 1864—8 years and 4 months—at 563,566-000,000, is,.....		$7,946 14
The present value of reversions of the 459 lots on a lease expiring 1st May, 1866, in 10 years and 4 months, at 491,107-000,000, is,.....		471,708 03
Add value of eleven payments of ground rents at $269 per annum, accumulated at 7 per cent.,.....	$4,245 78	
Present value of this sum at 491,107-000,000 is, ...		2,085 13
Total present value of reversions on the 1st of January, 1856, ...		$481,739 30

THE LISPENARD LEASE.

[The lease commonly known as the Lispenard Lease, given for 83 years in 1799, containing at this time about eighty-one lots of the ordinary size of twenty-five feet by one hundred feet, but subdivided by the lessee into a larger number of lots of a smaller and irregular size, as contained in the following schedule; the annual rent reserved on this lease is one hundred and seventy-seven dollars and fifty cents; the term expires on the 25th of March, 1862, except the lots noted as "Pepper Corn," which have been surrendered and new leases for the same respectively granted, expiring on the 1st of May, 1860, at a pepper corn rent, with the usual covenants of renewal]

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
183	Canal,	.....	.....	$6,000	$2,100	$3,900	For the whole of Lispenard lease as above stated,	As above stated,	$2,544 90
185	do	.....	.....	4,500	1,700	2,800	do do	do	1,827 11
187	do	.....	.....	5,000	2,300	2,700	do do	do	1,761 87
189	do	.....	.....	2,500	600	1,900	do do	do	1,239 83
191	do	.....	.....	2,000	400	1,600	do do	do	1,044 06
193	do	.....	.....	2,000	400	1,600	do do	do	1,044 06
195	do	.....	.....	3,500	1,200	2,300	do do	do	*1,668 41
197	do	.....	.....	3,500	1,300	2,200	do do	do	*1,633 94
199	do	.....	.....	7,000	2,800	4,200	do do	do	*3,119 34
203	do	.....	.....	3,000	15	2,985	do do	do	1,947 83
205	do	.....	.....	3,000	25	2,975	do do	do	1,941 30
205½							do do	do	
207	do	.....	.....	2,200	125	2,075	do do	do	1,354 01
209	do	.....	.....	2,200	500	1,700	do do	do	1,109 31
211	do	.....	.....	3,000	1,000	2,000	do do	do	1,305 08
213	do	.....	.....	3,000	1,000	2,000	do do	do	1,305 08
215	do	.....	.....	3,000	1,000	2,000	do do	do	1,305 08
217	do	.....	.....	5,500	1,700	3,800	do do	do	2,479 65
3	Desbrosses,	.. South,	Hudson and Greenwich,	3,500	600	2,900	do do	do	1,892 37
5	do	.. do	do	3,500	600	2,900	do do	do	1,892 37
7	do	.. do	do	3,500	2,000	1,500	do do	do	978 81

9	do ..	do	do	4,000	2,100	1,900	do	do	do	1,239	83
11	do ..	do	do	4,000	1,200	2,800	do	do	do	1,827	11
13	do ..	do	do	3,000	1,000	2,000	do	do	do	1,305	08
15	do ..	do	do	3,500	1,400	2,100	do	do	do	1,370	33
17	do ..	do	do	2,000	200	1,800	do	do	do	1,174	57
19	do ..	do	do	1,500	100	1,400	do	do	do	913	56
20	do ..	North,	do	3,500	1,000	2,500	do	do	dv	1,631	35
18	do ..	do	do	4,750	3,100	1,650	do	do	do	1,076	69
16	do ..	do	do	3,000	400	2,600	do	do	co	1,696	60
10	do ..	do	do	3,000	1,100	1,900	do	do	do	1,239	83
8	do ..	do	do	2,800	600	2,200	do	do	do	1,435	59
6	do ..	do	do	2,800	800	2,000	do	do	do	1,305	08
4	do ..	do	do	3,500	1,100	2,400	do	do	do	1,566	10
31	Vestry.....	South,	do	2,000	.....	2,000	do	do	do	1,305	08
33	do	do	do	2,000	150	1,850	do	do	do	1,207	10
35	do	do	do	4,200	2,100	2,100	do	do	do	1,370	33
37	do	do	do	4,000	2,100	1,900	do	do	do	1,239	83
39	do	do	do	4,500	2,400	2,100	do	do	do	1,370	33
†	do	do	do	12,000	4,500	7,500	do	do	do	4,894	05
42	do	North,	do	5,000	2,800	2,200	do	do	do	1,435	59
40	do	do	do	4,000	1,000	3,000	do	do	do	1,957	62
38	do	do	do	3,000	900	2,100	do	do	do	1,370	33
36	do	do	do	6,300	3,500	2,800	do	do	do	1,827	11
34	do	do	do	3,300	1,100	2,200	do	do	do	1,435	59
32	do	do	do	4,500	1,900	2,600	do	do	do	1,696	60
182	Hudson, ...	East,	Canal and Vestry,.....	5,000	2,100	2,900	do	do	do	1,892	57
186	do	do	do	4,600	2,250	2,350	do	do	do	1,533	46
190	do	do	do	4,400	2,000	2,400	do	do	do	1,566	10
194	do	do	do	4,400	2,000	2,400	do	do	do	1,566	10
196	do	do	do	4,300	2,000	2,300	do	do	do	1,500	84
198	do	do	do	4,300	2,000	2,300	do	do	do	1,500	84
200	do	do	do	3,800	1,900	1,900	do	do	do	*1,411	13
202	do	do	do	3,500	1,550	1,950	do	do	do	*1,448	26
211	do	West,	Watts and Desbrosses, ..	4,800	2,100	2,700	do	do	do	1,761	87
209	do	do	do ..	4,800	2,100	2,700	do	do	do	*2,005	29
207	do	do	do ..	4,800	2,100	2,700	do	do	do	1,761	87
205	do	do	do ..	6,000	2,000	4,000	do	do	do	2,610	16
193	do	do	Vestry and Desbrosses,.	6,000	3,300	2,700	do	do	do	1,761	87
191	do	do	do	6,000	3,300	2,700	do	do	do	*2,005	29
189	do	do	do	5,750	2,700	3,050	do	do	do	1,990	24
187	do	do	do	5,700	2,600	3,100	do	do	do	2,022	87

†Church plot.

THE LISPENARD LEASE.—(CONTINUED.)

House No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	Annual ground rent.	When term expires.	Value of reversions to the church.
185	Hudson, ...	West,	Vestry and Desbrosses,..	$5,700	$2,700	$3,000	For the whole of Lispenard lease as above stated,	As above stated,	$1,957 62
183	do	do	do do ..	6,000	2,900	3,100	do do	do	2,022 87
181	do	do	do do ..	6,000	2,000	4,000	do do	do	2,610 16
179	do	do	Vestry and Laight,....	4,000	2,000	2,000	do do	do	*1,485 90
177	do	do	do do	5,000	2,250	2,750	do do	do	1,794 48
175	do	do	do do	6,800	4,200	2,600	do do	do	1,696 60
113	do	do	do do	6,800	4,200	2,600	do do	do	1,696 60
429	Greenwich,..	East,	do do	6,000	400	5,600	do do	do	3,654 22
431	do ..	do	do do	4,000	400	3,600	do do	do	2,349 14
433	do ..	do	do do	4,000	300	3,700	do do	do	2,414 40
435	do ..	do	do do	5,000	2,300	2,700	do do	do	1,761 87
437	do ..	do	do do	5,500	3,000	2,500	do do	do	1,631 35
439	do ..	do	Vestry and Desbrosses,..	5,000	2,500	2,500	do do	do	1,631 35
441	do ..	do	do do ..	6,000	2,200	3,800	do do	do	2,479 65
443	do ..	do	do do ..	6,000	900	5,100	do do	do	3,327 95
445	do ..	do	do do ..	4,000	200	3,800	do do	do	2,479 65
447	do ..	do	do do ..	4,000	800	3,200	do do	do	2,088 13
449	do ..	do	do do ..	4,000	800	3,200	do do	do	2,088 13
451	do ..	do	do do ..	3,500	600	2,900	do do	do	1,892 37
453	do ..	do	Watts and Desbrosses, ..	4,500	1,700	2,800	do do	do	1,827 11
455	do ..	do	do do ..	6,000	1,600	4,400	do do	do	*3,267 88
457	do ..	do	do do ..	5,500	2,000	3,500	do do	do	2,283 89
459	do ..	do	do do ..	3,000	400	2,600	do do	do	1,696 60
463	do ..	do	do do ..	5,000	1,900	3,100	do do	do	2,022 87
465	do ..	do	do do ..	5,000	2,300	2,700	do do	do	1,761 87
467	do ..	do	Watts and Canal, ...	4,500	600	3,900	do do	do	2,544 91

43	Watts,.....	South,	Varick and Hudson,....	2,500	500	2,000	do	do	do	1,305	08
45	do	do	do do	2,500	500	2,000	do	do	do	1,305	08
47	do	do	do do	2,500	600	1,900	do	do	do	1,239	83
49	do	do	do do	3,000	1,650	1,350	do	do	do	880	92
51	do	do	do do	3,000	1,700	1,300	do	do	do	848	30
53	do	do	do do	2,500	700	1,800	do	do	do	1,174	57
55	do	do	do do	2,600	900	1,700	do	do	do	1,109	31
222	Canal,.....	.....	.....	9,500	3,000	6,500	do	do	do	4,241	51
220	do	.....	.....	5,500	2,100	3,400	do	do	do	2,218	64
218	do	.....	.....	3,550	1,000	2,500	do	do	do	1,631	35
216	do	.....	.....	4,100	1,200	2,900	do	do	do	1,892	37
214	do	.....	.....	4,000	800	3,200	do	do	do	2,088	13
212	do	.....	.....	4,300	800	3,500	do	do	do	2,283	89
210	do	.....	.....	5,000	900	4,100	do	do	do	2,675	41
208	do	.....	.....	6,000	1,000	5,000	do	do	do	3,262	70
206	do	.....	.....	5,500	900	4,600	do	do	do	3,001	68
204	do	.....	.....	4,500	700	3,800	do	do	do	2,479	65
61	Watts,.....	.....	.....	3,500	1,800	1,700	do	do	do	1,109	31
63	do	.....	.....	3,500	1,800	1,700	do	do	do	1,109	31
65	do	.....	.....	4,500	2,800	1,700	do	do	do	1,109	31
67	do	.....	.....	4,500	2,500	2,000	do	do	do	1,305	08
69	do	.....	.....	2,500	900	1,600	do	do	do	1,044	06
71	do	.....	.....	6,000	3,750	2,250	do	do	do	1,468	21
111				$472,100	$172,165	$299,935				$197,875	22

* Pepper Corn Leases.

RECAPITULATION.

Present value of lease expiring 25th March, 1862, calculated at 65.254 per $1,.....	$179,830 28
Add present value of ground rent, $177.50,.....	884 96
	$180,715 24
Present value of Pepper Corn Lease, expiring 1st May, 1860, calculated at 74.270 per $1,.....	18,044 94
	$198,760 18

Other lots or parcels of land owned by the Corporation of Trinity Church, not included in the foregoing stated Astor and Lispenard leases.

House No.	Map No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	When term expires. y'rs.	m's.	d's.	Value of reversion to the church.	Annual rent.	Present value of rent.
199	68	Fulton.....	North,	Church and Greenwich,....	$16,000	$4,700	$11,300	1	4		$10,308 20	$380 00	$550 72
201	67	do	do	do	16,000	4,700	11,300	1	4		10,308 20	380 00	550 72
205	65	do	do	do	10,000	175	9,825	18	4		2,782 63	1,000 00	10,612 20
207	W½ 63	do	do	do	5,000 }	500	9,500	20	4		2,344 70	1,000 00	11,174 30
211	E½ 63	do	do	do	5,000 }								
36	102	Vesey,.....	do	do	23,000	11,200	11,800	19	4		3,119 81	1,225 00	13,373 81
55	49	do	South,	do	14,000	3,000	11,000	16	4		3,575 11	500 00	5,015 75
48	140	do	North,	do	13,000	2,000	11,000	19	4		2,908 29	1,050 00	11,463 27
9	172	Barclay, ...	do	Broadway and Church,....	22,000	9,900	12,100	17	4		3,671 14	800 00	8,277 84
13	170	do	do	do	18,000	5,400	12,600	18	4		3,568 57	1,250 00	13,302 25
15	169	do	do	do	15,000	3,200	11,800	19	4		3,119 81	1,250 00	13,646 75
5 & 7	348	Murray, ...	do	do	31,000	13,400	17,600	16	2	24	5,786 00		
9	349	do	do	do	17,000	5,200	11,800	16	2	24	3,839 25	41 87	422 07
83	406	do	do	Chapel and Greenwich, ...	23,000	10,900	12,100	17	11	23	3,528 00	1,000 00	10,550 10
77	411	do	do	do	12,000	2,800	9,200	2	4		7,834 44	400 00	932 36
251	316	Broadway, ...	West,	Murray and Warren, ...	43,000	6,250	36,750	16	2	24	12,081 56	26 25	264 61
252	317	do	do	do	46,000	5,200	40,800	16	2	24	13,413 00	78 75	793 83
256	319	do	do	do	46,000	6,100	39,900	16	2	24	13,117 12		
49	360	Warren, ...	South,	Church and Chapel,.....	23,000	11,200	11,800	1	4		10,764 30	350 00	507 29
51	361	do	do	do	23,000	10,900	12,100	1	4		11,037 98	375 00	543 53
69	388	do	do	Chapel and Greenwich, ...	12,000	3,100	8,900	.....			8,900 00		
75	391	do	do	do	9,000	1,300	7,700	2	4		6,557 09	350 00	817 57
85	396	do	do	do	11,000	2,750	8,250	16	4		2,590 66	450 00	4,514 17
87	397	do	do	do	8,000	800	7,200	2	4		6,131 30	350 00	817 57
10	447	do	North,	Broadway and Church,....	17,000	4,500	12,500	15	10		4,204 75	550 00	5,425 86
18	443	do	do	do	32,000	15,700	16,300	18	8	11	4,502 38	1,425 00	15,361 64

20	442	do	North,	do	32,000	15,700	16,300	16	4	5,297 66	450 00	4,514 17		
30	438	do	do	do	31,000	14,850	16,150	15	4	5,622 65	400 00	3,858 92		
44	480	do	do	Church and Chapel,	12,000	2,600	9,400	20	4	2,320 01	1,250 00	15,361 64		
56	474	do	do	do	16,000	5,600	10,400		4	10,162 88	300 00	149 96		
112	458	Chamber	South,	do	15,009	3,900	11,100	11	4	5,088 50	300 00	2,424 33		
114	459	do	do	do	15,000	2,500	12,500		4	12,215 00	150 00	74 98		
136	486	do	do	Chapel and Greenwich,										
138	487	do	do	do										
140	488	do	do	do	35,714	6,214	29,500		4	28,827 40	440 00	219 94		
142	489	do	do	do										
148	493	do	do	do	15,000	4,100	10,900	1	4	9,943 31	150 00	217 41		
147	496	do	do	do	15,000	2,600	12,400		4	12,117 28	150 00	74 98		
163	625	do	North,	do	14,000	2,300	11,700	1	4	10,673 09	150 00	217 41		
161	626	do	do	do	22,000	10,350	11,650	1	4	10,627 48	150 00	217 41		
159	627	do	do	do	20,000	7,600	12,400	19	4	3,278 44	1,800 00	19,651 32		
157	628	do	do	do	14,500	2,900	11,600		4	11,335 50	150 00	74 98		
155	630	do	do	do	11,500	1,900	9,600	1	4	8,793 41	150 00	217 41		
69	538	Reade,	South,	Broadway and Church,	6,000	1,050	4,950		4	4,837 14	250 00	124 96		
71	539	do	do	do	5,000	550	4,450	1	4	4,059 42	250 00	362 35		
60	562	do	North,	do	5,500	700	4,800	10	4	2,357 33	225 00	1,710 88		
74	569	do	do	do	5,000	350	4,650	10	4	2,283 65	175 00	1,330 69		
89	576	do	South,	Church and Chapel,	8,000	.....	8,000	.....		8,000 00	6 00			
104	657 A	do	North,	do	4,500	500	4,000		4	3,908 80	210 00	104 97		
106	658 A	do	do	do	5,800	800	5,000		4	4,886 00	125 00	62 48		
108	659 A	do	do	do	4,300	200	4,100	19	4	1,084 00	400 00	4,366 96		
110	660 A	do	do	do	5,000	700	4,300	19	4	1,136 89	500 00	5,458 70		
156	687	do	do	Hudson and Greenwich,	6,500	1,300	5,200	17	4	1,577 80	300 00	3,104 19		
162	81	Canal,	do	Sullivan and Varick,	6,500	1,850	4,650	8	4	2,620 60	250 00	1,636 32		
164	82	do	do	do	6,500	2,100	4,400	8	4	2,479 71	250 00	1,636 32		
166	83	do	do	do	9,000	4,000	5,000	7	4	3,018 50	275 00	1,628 60		
190	111 A	do	do	Varick and Hudson,	6,800	2,800	4,000	11	10	1,771 80	156 00	1,301 99		
192	111 B	do	do	do	7,000	3,600	3,400	11	10	1,506 03	159 00	1,327 02		
194	112 B	do	do	do	7,000	3,600	3,400	11	10	1,506 03	162 00	1,352 07		
196	112 A & 113 B	do	do	do	7,000	3,600	3,400	11	10	1,506 03	162 00	1,352 07		
198	114	do	do	do	7,000	3,600	3,400	11	10	1,506 03	162 00	1,352 07		
200	115 E	do	do	do	7,000	3,600	3,400	11	10	1,506 03	162 00	1,352 07		
202	115 G	do	do	do	7,000	3,600	3,400	11	10	1,506 03	162 00	1,352 07		
169	139	do	South,	do	15,000	9,200	5,800	10	4	2,848 43				
173	137	do	do	do	5,000	1,400	3,600	10	4	1,768 00	625 00	4,752 44		
175	138	do	do	do	5,000	1,400	3,600	10	4	1,768 00				

PARCELS OF LAND.—(CONTINUED.)

House No.	Map No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	When term expires. y'rs.	m's.	d's.	Value of reversions to the church.	Annual rent.	Present value of rent.
177	136	Canal,	South,	Varick and Hudson,	$6,000	$1,700	$4,300	10	4		$2,111 77	$225 00	$1,710 88
32	—	Harrison,			5,000	1,800	3,200	9	2	20	2,135 62		
10	1132	Hubert,	North,	Collister and Greenwich,	10,000		10,000				10,000 00		
35	100	Watts,	South,	Varick and Hudson,	4,500	2,000	2,500	5	4		1,731 90	130 00	605 41
37	99	do	do	do	3,200	1,200	2,000	5	4		1,385 52	120 00	558 84
39	98	do	do	do	3,100	1,200	1,900	5	4		1,316 23	100 00	465 70
41	97	do	do	do	3,100	1,300	1,800	11	4		865 21	120 00	969 73
6	92	Grand	North,	Sullivan and Varick,	4,500	2,200	2,300	7	4		1,388 51	150 00	893 77
6 & 8	80	Sullivan,	West,	Grand and Canal,	2,000	500	1,500	10	10		711 76	135 00	1,059 33
10	79	do	do	do	2,500	400	2,100	10	10		996 47	150 00	1,177 03
12	78	do	do	do	2,200	200	2,000	9	10		1,016 60	400 00	2,941 12
9.11.13		do	do	do	12,500	6,600	5,900	9	10		2,998 97		
15 & 17	O	Fronting on Grand,	do	do			1,500	8	4		845 35	75 00	490 90
539	104	Broome,	South,	Clark and Varick,	5,000	3,100	1,900	5	4		1,316 24	150 00	698 55
541	103	do	do	do	5,000	3,300	1,700	7	4		1,026 29	150 00	893 77
543	102	do	do	do	5,000	3,300	1,700	9	4		894 35	150 00	1,063 92
545	101	do	do	do	4,500	1,900	2,600	9	4		1,367 83	150 00	1,063 92
547	100	do	do	do	4,200	1,700	2,500	9	4		1,315 22	150 00	1,063 92
536	55	do	North,	Sullivan and Clark,	5,500	3,500	2,000						
538	&	do	do	do	6,000	3,800	2,200	6	4		3,362 79	240 00	1,278 98
540	56	do	do	do	4,500	3,500	1,000						
6	Z	Clark,	East,	Broome and Spring,	2,100	200	1,900	6	4		1,228 71	100 00	532 91
16	50	do	do	do	4,000	2,300	1,700	4	4		1,261 59	130 00	511 65
18	49	do	do	do	3,000	900	2,100	1	4		1,915 68	140 00	502 92
22	47	do	do	do	2,500	1,150	1,350	17	4		409 59	140 00	1,448 62
24	46	do	do	do	2,500	1,100	1,400	2	4		1,192 20	130 00	303 67
26	45	do	do	do	4,500	2,600	1,900	16	4		617 52	140 00	1,404 41

5	84	do	West,	Broome and Dominick, ...	2,800	700	2,100	15	4	731	11	120	00	1,157 67
7	85	do	do	do	4,500	3,200	1,300	3	4	1,033	44	120	00	379 60
9	86	do	do	do	2,400	300	2,100	3	4	1,669	42	120	00	379 60
21	61	do	do	Dominick and Spring, ...	2,200	400	1,800	2	4	1,532	81	175	00	408 79
23	60	do	do	do	2,800	800	2,000	2	4	1,703	14	130	00	303 67
25	59	do	do	do	3,000	1,000	2,000	5	4	1,385	52	100	00	465 70
28	14	Renwick	East,	Canal and Spring, ...	3,000	1,500	1,500	10	4	736	67	75	00	570 29
34	18	do	do	do	3,800	2,200	1,600	9	4	811	74	80	00	567 43
36	17	do	do	do	3,800	2,200	1,600	9	4	841	74	80	00	567 43
40	20	do	do	do	3,500	1,600	1,900	9	4	999	57	80	00	567 43
42	21	do	do	do	3,500	1,750	1,750	9	4	920	66	80	00	567 43
222	42	Spring	South,	Sullivan and Clark, ...	5,000	2,800	2,200	14	4	820	49	140	00	1,306 31
224	41	do	do	do	5,000	2,000	3,000	16	4	975	03	140	00	1,404 41
226	40	do	do	do	6,000	2,900	3,100	16	4	1,007	53	175	00	1,755 51
5	62	Dominick, ...	North,	Clark and Varick, ...	3,200	1,500	1,700	2	4	1,447	67	140	00	327 03
7	63	do	do	do	2,200	250	1,950	3	4	1,550	17	100	00	316 33
9	64	do	do	do	2,500	450	2,050	17	4	621	97	175	00	1,810 78
11	65	do	do	do	3,200	900	2,300	2	4	1,958	61	140	00	327 03
13	66	do	do	do	3,000	600	2,400	16	10	753	64	150	00	1,528 81
8	90	do	South,	do	3,000	700	2,300	4	4	1,706	85	140	00	551 01
10	91	do	do	do	4,000	1,500	2,500	4	4	1,855	27	140	00	551 01
12	92	do	do	do	5,000	3,400	1,600	4	4	1,187	37	140	00	551 01
14	93	do	do	do	3,200	1,200	2,000	5	4	1,385	52	120	00	558 84
54	1163	Laight	North,	Hudson and Greenwich, ...	4,500	1,900	2,600	9	4	1,367	83	175	00	1,241 24
56	1162	do	do	do	4,000	1,600	2,400	9	4	1,262	61	175	00	1,241 24
58	1161	do	do	do	4,600	2,350	2,250	9	4	1,183	70	175	00	1,241 24
60	1164	do	do	do	5,500	3,050	2,450	4	4	1,818	17	200	00	787 16
59	1138 A	do	do	do	5,000	3,000	2,000	7	4	1,207	40	150	00	893 77
50	——	Varick	East,	Grand and ——, ...	19,000	.....	19,000	.....	.....	19,000	00			
——	89	do	do	Grand and Canal, ...	28,000	13,350	14,650	55	4	413	28			
——	88	do	do	do	.....	.....	3,800	55	4	107	30			
——	87	do	do	do	.....	.....	3,500	55	4	98	73			
——	86	do	do	do	.....	.....	3,500	55	4	98	73			
——	85	do	do	do	.....	.....	4,500	55	4	126	94			
80	84	do	do	Grand and Watts, ...	3,800	1,750	2,050	9	4	1,078	49	225	00	1,595 88
82	90	do	do	do	3,200	1,400	1,800	10	10	854	12	165	00	1,294 74
84	91	do	do	do	3,200	1,400	1,800	10	10	854	12	165	00	1,294 74
86	93	do	do	do	3,500	1,600	1,900	10	10	901	57	175	00	1,294 74
88	94 A	do	do	do	3,500	1,700	1,800	11	4	825	21	175	00	1,414 19
90	95 A	do	do	do	4,000	2,150	1,850	10	10	848	13	175	00	1,294 74
92	96 A	do	do	do	4,000	1,750	2,250	8	4	1,268	02	225	00	1,535 36

PARCELS OF LAND.—(CONTINUED.)

House No.	Map No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	When term expires. y'rs.	m's.	d's.	Value of reversions to the church.	Annual rent.	Present value of rent.
114	74	Varick, ...	East,	Broome and Dominick, ...	$4,500	$2,300	$2,200	18	4		$623 08	$200 00	$2,128 44
116	73	do	do	do do	5,000	2,900	2,100	18	4		594 76	200 00	2,128 44
120	67	do	do	Dominick and Spring,.....	3,700	1,350	2,150	2	4		1,830 87	175 00	408 79
83	106	do	West,	Canal and Watts,.....	4,300	2,200	2,100	11	4		962 75	165 00	1,333 38
85	105	do	do	do do	5,500	3,250	2,250	7	4		1,358 32	175 00	1,042 73
89	103	do	do	do do	4,200	2,100	2,100	10	4		996 47	165 00	1,294 74
91	102	do	do	do do	5,000	2,600	2,400	5	4		1,662 62	160 00	745 12
93	101	do	do	do do	4,000	1,600	2,400	7	4		1,448 88	220 00	1,310 87
119	99	do	do	Broome and Dominick, ...	4,500	2,300	2,200	4	4		1,632 64	175 00	688 77
121	98	do	do	do do	5,000	3,000	2,000	4	4		1,484 22	175 00	688 77
123	97	do	do	do do	4,500	1,600	2,900	2	4		2,469 55	225 00	525 58
125	96	do	do	Dominick and Spring, ...	4,500	2,050	2,450	4	4		1,818 17	250 00	983 50
127	95	do	do	do do	3,000	1,000	2,000	4	4		1,484 22	225 00	885 55
129	94	do	do	do do	3,200	1,050	2,150	18	4		608 92	200 00	2,128 44
207	—	do	.....	.....	4,400	2,400	2,000	10	10		949 02		
209	—	do	.....	.....	4,400	3,000	1,400	10	10		664 31	150 00	1,177 03
211	—	do	.....	.....	2,000	700	1,300	10	10		616 86		
213	272	do	do	Clarkson and Hamersley,..	2,200	1,100	1,100	11	4		504 29	150 00	1,212 16
215		do			2,200	1,100	1,100	11	4		504 29		
217		do	do	do do ..	4,500	3,000	1,500	11	4		687 67		
217½	274	do	do	do do ..	.....	.....	.....	.....			.....	300 00	2,424 33
219		do	do	do do ..	2,000	1,300	700	11	4		320 91		
221	271	do	do	do do ..	2,800	1,200	1,600	11	4		733 52	150 00	1,212 16
223	270	do	do	do do ..	5,000	3,100	1,900	11	4		870 67	150 00	1,212 16
225	269	do	do	do do ..	13,000	9,000	4,000	10	10		1,898 04	200 00	1,569 38

380	248	Hudson,	East,	do	do	2,900	800	2,100	10	10	996 47				
388	249	do	do	do	do	2,500	700	1,800	10	10	851 12	650 00	5,100 49		
390	250	do	do	do	do	2,500	1,800	2,900	10	10	1,376 08				
392			do			2,200									
394	251	do	do	do	do	8,000	5,300	2,700	10	10	1,281 18	175 00	1,363 20		
398	253	do	do	do	do	6,500	3,650	2,850	10	10	1,352 35	175 00	1,363 20		
		do	do	Grove and Barrow,											
438	161	do	do	Barrow and Morton,		3,800	1,400	2,400							
440	160	do	do	do	do	1,800	1,700	2,000							
442		do	do	do	do	1,900			10	10	2,989 38	560 00	4,394 26		
444	159	do	do	do	do	1,900	1,600	1,900							
446		do	do	do	do	1,600									
448	158	do	do	do	do	3,700	2,400	3,300	11	4	1,512 88	160 00	1,292 97		
450		do	do	do	do	2,000									
452	157	do	do	do	do	2,000	1,700	2,300	11	4	1,054 43	160 00	1,292 97		
454		do	do	do	do	2,000									
456	156	do	do	do	do	3,700	1,800	1,900	11	4	871 06	160 00	1,292 97		
462	154	do	do	do	do	7,300	2,550	4,750	10	10	2,253 92	230 00	1,804 79		
464	142	do	do	Grove and Barrow,		10,000	6,000	4,000	10	10	1,898 04	230 00	1,804 79		
466	141	do	do	do	do	2,100	1,750	2,450	11	4	1,123 20	160 00	1,292 97		
468		do	do	do	do	2,100									
470	140	do	do	do	do	2,100	1,750	2,450	11	4	1,123 20	160 00	1,292 97		
472		do	do	do	do	2,100									
474	139	do	do	do	do	2,100	1,750	2,450	11	4	1,123 20	160 00	1,292 97		
476		do	do	do	do	2,100									
478	138	do	do	do	do	2,100	2,150	2,450	11	4	1,581 65	160 00	1,292 97		
480		do	do	do	do	3,500									
482	137	do	do	do	do	3,000	1,200	1,800	11	4	865 21	160 00	1,292 97		
387	231A	do	West,	Clarkson and Hamersley,		5,500	2,250	3,250	10	4	1,596 10	275 00	2,091 07		
389	231B	do	do	do	do	5,000	2,650	2,350	10	4	1,154 10	175 00	1,216 63		
390	245	do	do	do	do	4,000	1,550	2,450	10	10	1,162 54	175 00	1,373 20		
393	246	do	do	do	do	4,100	1,600	2,500	10	10	1,186 27	175 00	1,373 20		
395	247	do	do	do	do	4,500	2,250	2,250	10	10	1,067 65	175 00	1,373 20		
397	248	do				4,000	1,850	2,150	9	4	1,127 09	250 00	1,773 20		
399	249	do				3,000	1,250	1,750	9	4	920 66	175 00	1,241 24		
401	250	do				3,000	3,300	3,100	9	4	1,630 88	175 00	1,241 24		
403		do				3,400									
405	227	do	West,	Clarkson and Le Roy,		4,100	1,500	2,550	10	10	1,210 00	260 00	2,040 10		
407	228	do	do	do	do	3,500	1,600	1,900	10	10	901 57	175 00	1,373 20		
409	229	do	do	do	do	4,000	1,850	2,150	10	10	1,020 24	175 00	1,373 20		

PARCELS OF LAND.—(CONTINUED.)

House No.	Map No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	When term expires. y'rs	m's.	d's.	Value of reversions to the church.	Annual rent.	Present value of rent.
411	230	Hudson, ...	West,	Clarkson and Le Roy, ...	$3,100	$1,500	$1,600	10	10		$2,087 84	$350 00	$2,746 40
413	231	do	do	do	5,800	3,000	2,800						
415	232	do	do	do	5,000	2,600	2,400	10	4		1,178 66	180 00	1,368 70
417	233	do	do	do	3,000	1,600	1,400	10	10		664 31	175 00	1,373 20
419	234	do	do	do	3,000	4,000	2,300	10	10		1,091 37	250 00	1,961 72
421		do	do	do	3,200								
435	208	do	do	Le Roy and Morton, ...	6,300	2,500	3,800	10	4		2,799 32	350 00	2,661 36
437	209	do	do	do	4,300	2,400	1,900						
439	210	do	do	do	2,000	950	1,050	10	4		515 66	175 00	1,330 68
441	211	do	do	do	2,000	950	1,050	10	4		515 66	165 00	1,254 65
443	212	do	do	do	4,200	1,800	2,400	10	4		1,178 66	250 00	1,900 97
447	169	do	do	Morton and Barrow, ...	4,000	1,700	2,300	10	10		1,091 37	225 00	1,765 55
449	170	do	do	do	3,700	1,900	1,800	10	10		854 11	175 00	1,373 20
451	171	do	do	do	4,300	2,200	2,100	10	10		996 47	175 00	1,373 20
455	173	do	do	do	3,800	2,800	4,800	10	10		2,277 65	175 00	1,373 20
457		do	do	do	3,800								
465	34	do	do	Barrow and Christopher,	5,800	2,450	3,350	11	4		1,535 80	175 00	1,414 19
467	35	do	do	do	2,800	1,900	1,900	11	4		871 06	140 00	1,121 35
469	36	do	do	do	3,400	1,700	1,700	11	4		779 36	140 00	1,131 35
487	1	do	do	do	8,000	3,850	4,150	11	4		1,902 56	372 60	3,011 02
489	2	do	do	do	3,700	1,650	2,050	11	4		939 82	110 00	888 92
493	4	do	do	do	3,400	1,650	1,750	9	4		920 65	120 00	851 13
495	5	do	do	do	3,400	1,650	1,750	9	4		920 65	110 00	780 20
497	6	do	do	do	3,500	1,800	1,700	11	4		779 36	125 00	1,010 14
499	7	do	do	do	2,900	1,500	1,400	11	4		641 83	100 00	808 11
458	155	do	do	Barrow and Morton, ...	1,900	1,600	2,200	10	10		1,043 92	160 00	1,255 51
460		do	do	do	1,900								

283	4	do	.....	do	Canal and Spring,	6,500	2,500	4,000	10	4		1,964	44	440	00	3,345	71
285	5	do	.....	do	do												
109	24	Greenwich,	.....	East,	Thames and Rector,	9,000	2,700	6,300	2	2	24	5,401	87	62	50	146	03
283	400	do	.....	do	Warren and Murray,	12,000	5,200	6,800		4		6,644	96	340	00	169	95
275	403	do	.....	do	do	12,000	5,000	7,000		4		6,840	40	340	00	169	93
277	402	do	.....	do	do	5,000	900	4,100	20	4		1,001	92	800	00	8,939	44
279	401	do	.....	do	do	16,000	7,400	8,600		4		8,403	92	330	00	164	96
281																	
377	936	do	.....	do	Franklin and N. Moore,	5,800	2,300	3,500	17	4		1,061	90	250	00	2,586	82
379	937	do	.....	do	do	5,000	1,500	3,500	17	4		1,061	90	250	00	2,586	82
381	938	do	.....	do	do	7,000	4,400	2,600	12	4		1,112	72	200	00	1,704	94
383	939	do	.....	do	do	11,000	6,900	4,100	12	4		1,754	68	250	00	2,131	18
387	1118	do	.....	do	N. Moore and Beach,	5,000	1,400	3,600	1	4		3,284	02	150	00	217	41
389	1119	do	.....	do	do	5,600	1,700	3,900	1	4		3,567	65	150	00	217	41
391	1120	do	.....	do	do	5,600	3,200	2,400	2	4		2,043	77	220	00	513	90
393	1122	do	.....	do	do	5,600	2,300	3,300	2	4		2,876	18	220	00	513	90
397	1123	do	.....	do	do	5,500	600	4,900	10	4		2,406	44	250	00	1,900	97
415	1132	do	.....	do	Hubert and Laight,	5,000	4,800	3,600	2	4		3,065	65	250	00	583	97
415½	——	do	.....	do	do	3,400											
417	1133	do	.....	do	do	4,000	1,200	2,800	2	4		2,384	40	200	00	467	18
419	1134	do	.....	do	do	4,500	1,150	3,350	2	4		2,852	76	200	00	467	18
421	1135	do	.....	do	do	3,000	1,000	2,000	2	4		1,703	14	200	00	467	18
423	1136	do	.....	do	do	4,500	1,550	2,950	2	4		2,512	12	200	00	467	18
425	1137	do	.....	do	do	4,600	2,100	2,500	2	4		2,128	92	200	00	467	18
427	1138	do	.....	do	do	5,500	2,200	3,300	2	4		2,810	18	250	00	583	97
555	160	do	.....	do	Hamersly and Clarkson,	6,000	200	5,800	19	4		1,533	47	325	00	3,548	15
587	158	do	.....	do	do	6,000	200	5,800	19	4		1,533	47	200	00	2,183	48
589	159	do	.....	do	do	6,000	300	5,700	19	4		1,507	02	200	00	2,183	48
607	210	do	.....	do	do	1,200	100	1,100									
603	211	do	.....	do	.....	1,000			5	4		1,905	08	225	00	1,047	82
605	——	do	.....	do	.....	1,000	350	1,650									
609	222	do	.....	do	.....	3,500	1,400	2,100	11	4		962	74	130	00	1,050	54
611	221	do	.....	do	.....	3,000	1,500	1,500	10	10		711	76	140	00	1,098	57
627	——	do	.....	do	.....												
629	——	do	.....	do	.....	3,800	1,600	2,200	10	10		1,043	92	290	00	2,275	60
631	——	do	.....	do	.....												
633	185	do	.....	do	.....	2,900	1,150	1,750	10	10		1,637	05	290	00	2,275	60
635	184	do	.....	do	.....	2,700	1,000	1,700									
637	183	do	.....	do	.....	2,600	950	1,650	11	4		756	44	130	00	1,050	54
639	182	do	.....	do	.....	2,700	700	2,000	12	4		855	94	130	00	1,108	21
641	179	do	.....	do	.....	2,700	1,200	1,500	11	4		687	67	300	00	2,424	33

PARCELS OF LAND.—(CONTINUED.)

House No.	Map No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the lease.	When term expires. y'rs.	m's.	d's.	Value of reversions to the church.	Annual rent.	Present value of rent.
643	29	Greenwich,	East,	Barrow and Christopher, ..	$3,900	$1,950	$1,950	11	4		$893 97	$150 00	$1,212 17
645	28	do	do	do ..	3,000	1,550	1,450	11	4		664 75	100 00	852 47
647	27	do	do	do ..	3,200	1,750	1,450	11	4		664 75	100 00	852 47
649	26	do	do	do ..	3,900	2,100	1,800	11	4		825 21	100 00	852 47
651	25	do	do	do ..	2,700	1,400	1,300	11	4		595 98	100 00	937 72
653	24	do	do	do ..	2,700	1,400	1,300	11	4		595 98	100 00	852 47
655	23	do	do	do ..	2,700	1,450	1,250	11	4		573 06	100 00	852 47
657	22	do	do	do ..	2,900	1,500	1,400	11	4		641 83	100 00	852 47
661	20	do	do	do ..	3,000	1,750	1,250	11	4		573 06	100 00	852 47
665	18	do	do	do ..	3,000	1,750	1,250	11	4		573 06	100 00	808 11
667	17	do	do	do ..	3,000	1,750	1,250	11	4		573 06	100 00	888 92
669	16	do	do	do ..	3,000	1,750	1,250	11	4		573 06	100 00	808 11
671	15	do	do	do ..	3,100	1,800	1,300	11	4		595 98	100 00	808 11
673	14	do	do	do ..	3,100	1,800	1,300	11	4		595 98	100 00	808 11
665	13	do	do	do ..	3,100	1,800	1,300	11	4		595 98	100 00	808 11
667	12	do	do	do ..	4,300	2,200	2,100	11	4		962 75	150 00	1,212 16
368	787	do	West,	Franklin and N. Moore, ..	5,500	1,100	4,400	8	2	24	2,496 78	5 00	32 73
372	789	do	do	do ..	4,800	100	4,700	8	2	24	2,667 01	5 00	32 73
374	790	do	do	N. Moore and Beach, ...	5,500	1,400	4,100	6	4		2,651 43	5 00	26 65
376	791	do	do	do	6,000	2,450	3,550	6	4		2,295 74	5 00	26 65
378	&	do	do	.....									
380	792	do	do	do									
382	804	do	do	do	8,000	4,000	4,000	10	2	24	1,977 96	5 00	38 03
384	805	do	do	do	8,000	4,500	3,500	10	2	24	1,730 71	5 00	38 03
636	93	do	East,	Morton and Barrow, ...	2,300	900	1,400	10	10		664 31	150 00	1,177 03
638	94	do	do	do	2,700	1,050	1,650	11	4		1,512 88	250 00	2,020 27
640	95	do	do	do	2,700	1,050	1,650						

642	96	do	.....	do	do	.....	2,600	900	1,700	10	4	834 88	110 00	836 43
644	97	do	.....	do	do	.....	1,800	600	1,200	11	4	1,100 28	250 00	2,020 27
646	98	do	.....	do	do	.....	1,800	600	1,200					
650	99	do	.....	do	do	.....	4,400	2,600	1,800			854 12		
652	100	do	.....	do	do	.....	3,100	1,300	1,800	10	10	854 12	290	2,275 60
654		do	.....	do	do	.....	3,300	1,300	2,000			949 02		
656	83 B	do	.....	West,	Barrow and Christopher, ..		3,000	1,100	1,900	10	4	933 10	90 00	684 35
658	P T C 81	do	.....	do	do	..	2,500	950	1,550	10	4	761 22	90 00	684 35
660	P T D 79 & 81	do	.....	do	do	..	3,000	1,800	1,200	10	4	589 33	90 00	684 35
662	P T E 77 & 79	do	.....	do	do	..	3,000	1,650	1,350	10	4	663 00	90 00	684 35
664	P T F 75 & 77	do	.....	do	do	..	3,000	1,650	1,350	10	4	663 00	90 00	684 35
666	P T C 75	do	.....	do	do	..	3,000	1,600	1,400	10	4	687 55	90 00	684 35
668	P T T S 73 & 75	do	.....	do	do	..	3,000	1,600	1,400	10	4	687 55	90 00	684 35
670	P T 72 & 73	do	.....	do	do	..	3,000	1,600	1,400	10	4	687 55	90 00	684 35
672	PTTC 72	do	.....	do	do	..	2,500	1,450	1,050	10	4	515 67	90 00	684 35
617	92	Washington,	.....	East,	Barrow and Morton, ...		3,000	1,700	1,300	10	10	616 88	125 00	980 86
619	91	do	.....	do	do	.....	1,400	25	1,375	10	10	652 46	100 00	784 69
621	90	do	.....	do	do	.....	2,000	25	1,975	12	4	845 24	100 00	852 47
623	89	do	.....	do	do	.....	3,000	1,300	1,700	12	4	727 55	100 00	852 47
625	88	do	.....	do	do	.....	2,300	400	1,900	12	4	813 14	100 00	852 47
627	87	do	.....	do	do	.....	1,900	250	1,650	10	4	782 94	90 00	684 35
631	85	do	.....	do	do	.....	3,500	1,750	1,750	10	10	830 39	130 00	1,020 10
633	84	do	.....	do	Barrow and Christopher...		2,400	1,000	1,400	10	10	664 31	150 00	1,177 53
641	76	do	.....	do	do	..	2,600	700	1,900	11	10	841 61	100 00	834 61
643	74	do	.....	do	do	..	2,800	1,400	1,400	10	10	664 31	100 00	784 69
51	168	Morton,	.....	North,	Bedford and Hudson, ...		4,000	1,400	2,600	12	10	1,075 10	185 00	1,616 55
59	164	do	.....	do	do	.....	8,000	5,450	2,550	13	4	1,018 75	150 00	1,341 37
61	163	do	.....	do	do	.....	8,400	5,800	2,600	13	4	1,038 72	150 00	1,341 37
63	162	do	.....	do	do	.....	8,000	5,450	2,550	11	4	1,169 04	150 00	1,212 16
73	189	do	.....	do	Hudson and Greenwich,...		4,000	4,950	2,050	10	10	972 74	125 00	980 86
75	——	do	.....	.....	.....		3,000							
76, 77	190	do	.....	South,	do	.....	4,000	2,200	1,800	14	4	671 31	135 00	1,259 65
79	187	do	... .	North,	do	.....	3,200	1,450	1,750	11	4	802 28	150 00	1,212 16
78	191	do	.....	South,	do	....	7,800	5,500	2,300	16	4	747 52	150 00	1,504 72
80	192	do	.....	do	do	.....	3,700	1,550	2,150	12	10	889 12	140 00	1,223 33

PARCELS OF LAND.—(CONTINUED.)

House No.	Map No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	When term expires. y'rs.	m's.	d's.	Value of reversions to the church.	Annual rent.	Present value of rent.
82	193	Morton,	South,	Hudson and Greenwich,	$3,000	$1,450	$1,550						
84	194	do	do	do	3,000	1,450	1,550						
86	195	do	do	do	3,000	1,450	1,550	10	10		$3,748 83	$550 00	$4,315 80
88	196	do	do	do	3,000	1,450	1,550						
90	——	do			3,200	1,500	1,700						
——	——	Hamersley,											
——	——	do											
69	267	do	North,	Hudson and Varick,	3,300	1,750	1,550	15	4		539 63	140 00	1,350 62
71	265	do	do	do	2,800	900	1,900	14	4		708 60	150 00	1,306 31
73	263	do	do	do	7,500	5,100	2,400	17	10		703 53	200 00	2,099 46
75	259	do	do	do	3,300	1,400	1,900	11	10		841 60	150 00	1,251 91
77	257	do	do	do	2,700	800	1,900	4	4		1,410 01	150 00	590 37
79	257	do	do	do	2,700	800	1,900	11	4		871 06	150 00	1,212 16
81	255	do	do	do	3,600	1,900	1,700	13	10		702 95	150 00	1,370 99
83	255 A	do	do	do	3,000	1,500	1,500	7	4		905 55	150 00	893 77
93	244	do	do	Hudson and Greenwich,	2,000	900	1,100	11	4		504 30	140 00	1,131 35
95	243	do	do	do	4,000	2,000	2,000	11	4		916 90	140 00	1,131 35
97	242	do	do	do	3,500	1,650	1,850	11	10		819 46	140 00	1,168 45
99	241	do	do	do	4,000	2,000	2,000	11	10		885 90	140 00	1,168 45
101	240 A	do	do	do	4,000	2,550	1,450	11	4		664 85	140 00	1,131 35
103	240	do	do	do	4,200	2,200	2,000	11	4		916 90	140 00	1,131 35
72	146	Barrow,	do	Hudson and Bedford,	4,500	1,700	2,800	12	4		1,198 32	120 00	1,022 96
74	145	do	do	do	1,500	900	600	12	4		256 78	150 00	1,278 70
76	144	do	do	do	1,500	850	650	13	4		268 68	140 00	1,251 95
78	143	do	do	do	2,800	1,600	1,200	11	4		550 14	120 00	989 73

92	32	do	do	Hudson and Greenwich,	4,000	2,150	1,850	11	4	848	13	92	50	747	50
94	31	do	do	do	3,200	1,500	1,700	11	4	779	36	100	00	808	11
26	148	do	do	do	1,600	750	850	15	10	285	92	75	00	739	89
96	30	do	do	do	2,000	750	1,250	11	4	573	06	100	00	808	11
145	149	do	do	Hudson and Bedford,	2,100	850	1,250	18	10	342	06	187	50	2,021	65
83	153	do	do	do	3,000	1,700	1,300	11	4	595	98	120	00	969	73
90	33	do	do	Hudson and Greenwich,	2,500	1,350	1,150	11	4	527	22	50	00	404	05
161	177	do	South,	do	4,000	2,100	1,900	11	10	841	60	125	00	1,043	26
163	178	do	do	do	3,300	1,700	1,600	11	4	733	52	130	00	1,050	54
8	268	Clarkson	do	Hudson and Varick,	3,000	1,250	1,750	12	4	748	95	137	50	1,271	14
10	266	do	do	do	4,500	2,400	2,100	12	10	868	35	310	00	2,708	81
12	264	do	do	do	4,500	2,400	2,100	12	10	868	35				
14	262	do	do	do	4,500	2,750	1,750	12	4	748	95	175	00	1,491	82
16	260	do	do	do	3,800	2,200	1,600	12	10	661	60	175	00	1,529	16
18	258	do	do	do	3,400	1,750	1,650	11	4	756	44	160	00	1,292	98
20	256 B	do	do	do	2,900	1,250	1,650	9	10	838	70	175	00	1,286	74
22	256	do	do	do	2,900	1,250	1,650	10	4	810	32	165	00	1,254	63
		do													
		do													
36	235	do	do	Hudson and Greenwich,	3,800	1,800	2,000	10	10	949	02	120	00	941	63
38	236	do	do	do	3,800	1,500	2,300	10	4	1,129	55	130	00	988	51
40	237	do	do	do	3,000	1,300	1,700	11	10	753	01	120	00	1,001	53
42	238	do	do	do	4,500	2,600	1,900	11	10	841	60	130	00	1,084	99
44	239	do	do	do	4,000	2,300	1,700	12	4	727	55	130	00	1,108	21
46		do			3,000										
+ 48	154	do			3,000	6,000	3,000	19	4	793	17	200	00	2,183	48
50		do			3,000										
+ 52	153	do			3,000	3,200	3,000	19	4	793	17	350	00	3,821	09
54		do			3,200										
35	226	do	North,	Hudson and Greenwich,	3,600	1,750	1,850	11	4	848	13	140	00	1,131	35
37	225	do	do	do	2,300	1,100	1,200	11	4	550	14	140	00	1,131	35
39	224	do	do	do	2,800	650	2,150	11	4	985	66	140	00	1,131	35
41	223	do	do	do	2,900	1,300	1,600	11	4	733	52	140	00	1,131	35
		do													
		do													
		do													
		do													
		do													
108	213	Leroy,	South,	do	4,200	2,500	1,700	11	4	779	36	130	00	1,050	54
		Commerce,													

PARCELS OF LAND.—(CONTINUED.)

House No.	Map No.	Fronting on what street.	Side of street.	Between what streets.	Gross assessed value of lot and buildings in 1855, the latter being the property of the tenants.	Estimated portion of assessed value for the buildings.	Net value in 1855, deducting buildings irrespective of the leases.	When term expires. y'rs.	m's.	d's.	Value of reversions to the church.	Annual rent.	Present value of rent.
4 & 6	133	Grove,	South,	Hudson and Bedford,	$4,600	$2,400	$2,200	13	4		$878 92	$150 00	$1,341 37
8	159 A	do	do	do	2,400	850	1,550	7	4		935 73	150 00	893 77
10	160 A	do	do	do	2,400	700	1,700	12	4		727 55	150 00	1,278 70
134	8	Christopher,	do	Greenwich and Hudson,	2,600	1,550	1,050	11	4		481 37	100 00	808 11
136	9	do	do	do	2,600	1,550	1,050	11	4		481 37	100 00	808 11
138	10	do	do	do	2,600	1,550	1,050	11	4		481 37	100 00	808 11
140	11	do	do	do	2,600	1,400	1,200	11	4		550 14	100 00	808 11
—	—	do	do	Washington and Green,									
144	69	do	do	do	2,600	1,250	1,350	1	4		1,231 51	200 00	289 88
146	68	do	do	do	2,800	1,200	1,600	1	4		1,459 57	175 00	253 64
148	67	do	do	do	2,600	1,000	1,600	1	4		1,459 57	175 00	253 64
150	66	do	do	do	2,500	600	1,900	1	4		1,733 24	200 00	289 88
152	65	do	do	do	2,300	250	2,050	1	4		1,870 07	200 00	289 88
154	64	do	do	do	2,500	500	2,000	1	4		1,824 46	200 00	289 88
156	63	do	do	do	3,000	900	2,100	1	4		1,915 68	300 00	434 82
—	829	Hudson (reserved for site of a church),			3,000		3,000				3,000 00		
—	830	do			2,800		2,800				2,800 00		
—	831	do			2,800		2,800				2,800 00		
—	832	do			2,800		2,800				2,800 00		
—	833	do			2,800		2,800				2,800 00		
—	834	do			2,800		2,800				2,800 00		
—	835	do			2,800		2,800				2,800 00		

—	836	do	.....	.....	2,800	.....	2,800	.....	2,800 00		
—	837	do	.....	.....	3,000	.....	3,000	.....	3,000 00		
—	—	Clarkson and LeRoy,	.....	.....	4,000	.....	4,000	.....	4,000 00		
—	—	do	.....	.....	3,300	.....	3,300	.....	3,300 00		
415					$2,232,214	$854,839	$1,394,175	.....	$768,842 32	$70,855 47	$534,980 82
		Astor lease,			1,892,900	918,300	974,600	.....	479,654 17	269 00	2,085 13
		Lispenard lease,			472,100	172,165	299,935	.....	197,875 22	177 50	884 96
		Total,			$4,597,214	$1,945,304	$2,668,710	.....	$1,446,371 71	$71,301 97	$537,950 91

Besides the above mentioned real estate, the following parcels of land, not under lease, are owned by this corporation, to wit:

First. The piece of land in the first ward of the city of New-York, whereon is erected the parish church, called Trinity Church, bounded east and south and west by the Broadway, Rector street, and Trinity Place, (formerly Lumber street,) respectively, and north by the land next mentioned, such piece of land comprising a lot of land supposed to have been purchased for the church site by Governor Fletcher and others, in or about the year 1696, and part of which was formerly called the Queen's Garden, and contains in breadth, on Broadway and Trinity Place, about 314 feet, and in length, on the easterly and westerly sides, about 230 feet. This church and land is solely used as a place of worship and cemetery. The value of this property is unknown.

Second. The piece of land next north of the last mentioned piece of land, and bounded by it on the south by the Broadway, on the east by the said Trinity Place, on the west and on the north by land formerly of Mr. Roosevelt, now of Bulkley and Chaplin and others. This land was given to Trinity Church by the corporation of the city of New York, in the year 1703, to be appropriated forever thereafter for part of the public church yard of Trinity Church, and for a burying ground, to which uses only it has been applied. Its value is unknown.

Third. The piece of land situate in the Third ward of the city of New York, bounded north, east, south and west by Vesey street, the Broadway, Fulton street and Church street, respectively, on which St. Paul's Chapel stands. It is 150 feet wide in front, on Broadway and in the rear, and 400 feet in length on each side. It is solely used for a place of public worship, church yard and burying ground, except a small lot on the northwest corner occupied by the city corporation for the accommodation of the fire department free of rent, and for a Sunday and parish school room and office, and that on the southwest corner is the vestry office of the corporation. The value of this property is unknown.

Fourth. The piece of land situate in the Fifth ward of said city, on the east side of Varick street, and extending through to St. John's lane, between Beach and Laight streets, whereon St. John's chapel stands, being 170 feet in width by 175 feet in depth. On the southeast corner of this lot is a brick stable, erected for and used by the rector free of charge. The value of this property is unknown.

Fifth. The burying ground, or cemetery, in the Ninth ward of the city of New-York, commonly called the Episcopal cemetery, bounded west by Hudson street, north by Le Roy street, east by the burying ground of the German Lutheran congregation, and south by Clarkson street, being 208 feet in width, by 341 feet in length. The westerly part of this ground is reserved for the site of a church edifice, and no burials have yet been made in it. Nine lots in that part fronting on Hudson street, and two lots or parcels adjoining, fronting on Clarkson and Le Roy streets, on which stands a small house, in which the keeper lives, and a chapel for the performance of the burial service, are assessed as specified in the foregoing schedule, and the residue is the burying ground, the value of which is unknown.

Sixth. The Trinity Church cemetery, situated in the Twelfth ward of said city, bounded by the Tenth avenue and Hudson river on the east and west, and by 153d and 155th streets on the south and north, containing, streets and avenues included, twenty-three and ninety-four hundredths acres of land. This property was purchased by Trinity Church in the fall of 1842, subsequently and pursuant to the act concerning "the acquisition of burial places by religious corporations in the city of New York," passed April 11th, 1842. The value of this property is unknown.

Seventh. The piece of land in the Eighteenth ward of the city of New York, whereon Trinity chapel stands, bounded on the north by 26th street, on the south by 25th street, and situated between Broadway and the Sixth avenue, and commencing about 450 feet eastwardly from said avenue, and containing in breadth on 25th and 26th street, each 125 feet, and in length on the east

and west sides each 197 feet 6 inches. The cost of this property is stated in this report. It is solely used as a place of worship. The value of this property is unknown.

WM. E. DUNSCOMB,
Senior Warden and Comptroller.

STATE OF NEW-YORK:
City and County of New-York, }

We, the corporation called "The rector, church wardens and vestrymen of Trinity Church in the city of New York," do hereby certify and declare the preceding to be the return of said corporation, adopted at a meeting thereof held on the 13th day of February instant, and that William E. Dunscomb, Esquire, by whom the said return is signed, and which was made out by him, or under his direction, is the comptroller of the said corporation, and Richard H. Ogden, Esquire, the clerk thereof. In witness whereof, we have caused our seal to be hereunto affixed this fifteenth day of February, in the year of our Lord one thousand eight hundred and fifty-six.

By order of the Corporation of Trinity church, in the city of New-York.

WILLIAM BERRIAN, *Rector.*

[L. S.] RICHD. H. OGDEN,
Clerk of the Vestry.
WM. E. DUNSCOMB,
Senior Warden and Comptroller.

FACTS AGAINST FANCY;

OR,

A TRUE AND JUST VIEW

OF

TRINITY CHURCH.

BY THE

REV. WILLIAM BERRIAN, D. D.,

THE RECTOR OF THE SAME.

NEW YORK:
PUDNEY & RUSSELL, PRINTERS,
No. 79 JOHN-STREET.
1856.

Entered according to Act of Congress, in the year 1855, by

The Rev. Wm. Berrian, D. D.,

In the Clerk's Office of the District Court of the United States for the Southern District of New York.

R. C. VALENTINE,
Stereotyper and Electrotypist
17 Dutch-st., cor. Fulton
New York.

FACTS AGAINST FANCY.

THERE are occasions when, in the proud consciousness of having acted rightly, we are, nevertheless, accused unjustly, that we are restrained by a sense of self-respect from answering the charges, and would rather suffer in silence than subject ourselves to fresh humiliation. This is especially so in the case of individuals with noble minds. It is so, in a degree, likewise, with public men, who have no private aims, and are labouring solely for the good of others. Such is, precisely, the situation of Trinity Church. She has gone on from generation to generation with the steady aim and constant desire of doing all the good in her power, without regard to the ingratitude for her favors, or the injustice and violence of popular clamour, and so, I think, she would proceed for the time to come, were it not abundantly manifest that there is a concert of action and a combination of all elements against her, which, by means

of gross misrepresentation and unworthy disparagement, are intended to cripple and destroy her, and which, I trust in God, may be signally defeated.

It would be a curious thing if all the secret motives could be analyzed and detected, which unite men of such different minds so heterogeneously, in this strange combination against Trinity Church. Political and religious prejudice, restless agitation, unbridled cupidity, the jealousy of wealth and influence in all their forms, however beneficently and usefully employed, are enough to account for the eager activity of worldly men in this unworthy pursuit. But, disappointment, with others, in the unreasonable expectations of the bounty of Trinity Church, which, in many cases, it was out of her power to gratify; the neglect of visionary schemes for enlarging her usefulness, which, practical men, on the bare suggestion of them, could not always see fit to carry out; and, above all, the root of bitterness in the entertainment of sound Church principles, and the manful maintenance of them at all times, through good and evil report; these are the faults which, on the part of some, can never be forgotten, and of others, never forgiven. Down with her, down with her, even to the ground, "by law" if they can, "without law" if they "cannot."

It is not my design, in the statement which I am about to make, to notice the legal or political questions in relation to the title of Trinity Church. These have been so often determined and settled in all

their aspects, by the opinions of the Chancellor, the conclusions of the Land Commissioners, the decisions of the inferior courts, the higher courts, and the court of final appeal, as to make it a matter of wonder that credulity should still be as blindfold, and agitation as restless, as if no decisions in the case had ever been made.

I intend merely to meet the more common objections and popular errors which so generally prevail in regard to the wealth, the duties, and failings of Trinity Church, and to discuss them with temper, candour, and truth. Among the most conspicuous of these errors, is the exaggerated notion, which is almost universally entertained, of the enormous and unbounded wealth of this great Corporation. It is the theme of the press, the subject of legislative enquiry, the longing of avarice, the temptation to rapacity, the excuse for sacrilege. It is a fruitful topic, which may be treated in a variety of ways, but, in almost all cases, however, to answer one common end. In some it is done thoughtlessly, in ignorance and delusion; in others, with wilfulness and malice, and the most pernicious intent. It is surprising, nevertheless, to behold occasionally, intelligent, conscientious, and devout men, adopting this popular error without examination, and giving currency to it with all the extravagance and absurdity of popular belief. This was painfully illustrated at the late Convention of the Diocese, in the case of an honorable man, distinguished for the warmth of his

feelings and the strength of his prejudices, but, nevertheless, very generally respected for the honesty of his purposes and his great moral worth. After indulging in a course of remark against Trinity Church, from which he should have been restrained by filial reverence to the memory of his venerated father, who, for several years, was a Warden of that Church, and who adorned the station as he did every other which, in the fullness of his honours, he was selected to fill; and after having had abundant opportunities of learning the actual condition of the parish from his pure and honored brother, who, for seventeen years, was a Vestryman of the same, and who died in its bosom; he, nevertheless, united in the general cry against its enormous wealth for the accomplishment of a particular purpose, and gave a touch of exaggeration to his picture unequalled by all who have gone before him. "The dreams of avarice have never conceived it."

Now what is it? This wealth is not to be determined by fanciful conjecture, but by sober calculation and absolute fact. It is to be determined, so far as the measure of its bounties is concerned in the relief of others, beyond the immediate wants of the parish itself, by its present and available means, and not by its remote and contingent results. What, then, are these available means? According to the statement in the History of Trinity Church, prepared by the Rector with the fullest opportunities of information and with great accuracy and care, the gross revenue of

the Corporation from ground rents, pew rents, and every other source, had never in any one year reached a higher point than $57,932 37. After deducting the interest on the debt of about $440,000, amounting to $24,802 31, the net income thereof was, in 1847, only $33,130 06. This was the sum total, as declared in all the gravity of history by a minister of truth. This was the sum total as declared by the solemn testimony of the Comptroller, before a Committee of the Legislature. And if the one is not to be credited on his responsibility as a conscientious historian, nor the other on the sacredness of an oath as a christian, there is an end of faith among men, and no higher sanction can be given.

But in order to present the whole subject with frankness and candour, and to leave no room for suspicion in honourable minds of evasion or doubt, it is proper to state, that, from great changes in the general value of property in this city within the last few years, the income of Trinity Church has been materially increased. But what is it, with this somewhat sudden and unexpected advantage, at the present time? The gross amount of it from ground rents, pew rents, and every other source, was, on the first of May last, $89,486 54. After deducting, then, the interest on its present debt of $648,913, (which was mainly incurred by her benefactions to others,) amounting to $34,781 28, the net income of Trinity Church is precisely, neither more nor less than $54,705 26. And is this amount for an ancient Cor-

poration with a large landed property in a great and flourishing city, "beyond the dreams of avârice?" The wonder is, that it should be so small. This is only to be accounted for from the fact, that the greater part of the Church Estate is out on lease at a mere nominal rent, and which is not to expire for several years. Now this income of Trinity Church, when reduced by arithmetical calculation to its actual amount, and compared with the general notions of its unlimited extent, is an instance of the fallacy of popular delusion without a parallel in the annals of mankind.

It is equalled, as there is good reason to believe, by the income of the Associate Reformed Dutch Church of this city, against which there is no clamour, as I am very sure there is no ground. It is exceeded by the income of the Sailor's Snug Harbour, in the further increase of which all benevolent minds would rejoice. It is both equalled and surpassed by the incomes of many individuals in this great commercial metropolis, which are viewed without jealousy, and enjoyed in quietness and ease.

The general ground of complaint, then, against Trinity Church, is based on the fallacious assumption of her having the power to do what each one desires, and what she, in the plenitude of her power, sees fit to will. The wealth of Crœsus would not be sufficient for the purpose. But, nevertheless, all applicants for her favour hold on to this opinion with unflinching tenacity, in spite of the most sober representations and all rational belief. The perplexity and

embarrassment, therefore, of this Corporation, from such an incorrigible error, can only be conceived and appreciated by men of sound wisdom and calm judgment, who are accustomed to look at things as they actually are, and not, as to superficial minds, they falsely appear.

Now, how, then, is the charge of the sordid avarice of Trinity Church, in the view of her real, but not fancied means, to be met? I answer, emphatically by her deeds. There is nothing in this country nor any other, so far as I know, that can be compared with them. From the time that she reached the point when her income exceeded her reasonable wants, to the time that it had gone far beyond them, she has, in due proportion, dispensed them with a freedom and liberality which have made her wealth a general blessing. But as assertion is one thing, and proof is another, I will proceed at once to establish the truth of the declaration. And I beg the patience of the reader for the dryness of the facts, on account of their importance and pertinency to the matter in hand.

In the statement of these facts I must have recourse to the most reliable means of verifying them, and I am not aware of any better than those which are furnished so minutely and fully in the History of Trinity Church.

"GRANTS, GIFTS AND LOANS OF TRINITY CHURCH.

"In the early part of the history of this parish, it stood in need of assistance itself, and was, therefore, altogether unable to attend to the wants of others. The first instance of its bounty towards a neighbouring church, recorded in the minutes, was in the gift of the communion cloth, pulpit cloth, and cloth for the desk, to Mr. Peter Jay, for the church at Rye, in the year 1745. Since that time, in every alteration and improvement of Trinity Church and its Chapels, its gifts to needy congregations of articles of all kinds have been innumerable; baptismal fonts, communion plate, chandeliers, lustres, pulpits, desks, stoves, bells, iron gates, iron railing and other fences, flagging stones, carpets for chancel and aisles, and almost every thing which can enter into the construction and serve for the decoration of the Sanctuary. These, however, though a seasonable relief to parishes which were limited in their resources, are scarcely worthy of being noticed in connection with its lavish bounties and munificent grants to most of the churches throughout the State. There is hardly a form in which their liberality could promote the interests of religion, that it has not assumed. When unable to contribute largely, they did it judiciously, and according to their ability.

Thus we find at a time* when infidelity was very prevalent here, that 200 copies of a work entitled the Antidote to Deism were purchased by the Vestry, and committed to the Rector and Assistant Ministers for distribution, and shortly after 500 copies of Watson's Apology.

As there was no Bible and Common Prayer Book Society in that day, the Vestry, in consideration of the great feeble-

* 1797.

ness and urgent wants of the Church, in some slight degree anticipated the establishment of such an institution.

In 1797, they gave to the committee of the Convention for Propagating the Gospel 150 copies of the Book of Common Prayer, and 100 copies to Christ Church, Duanesburg. In the following year 50 copies to Christ Church, Ballston. 500 copies were afterwards given to the Rector for distribution, together with 200 copies of Hobart's Companion for the Altar. And in 1807, 200 copies of Fowler's Exposition of the Book of Common Prayer. On another occasion an appropriation was made of £100, which the Rector was to expend in Prayer Books.

The Vestry also committed to the Rector, for the promotion of religion upon the frontiers of this State, £150, ... $375

In 1799, They gave to the Committee for the Propagation of the Gospel $412

1805, do do do 250

1807, do do do 250

At one time they appropriated £200 towards furnishing land for a Negro Burial-Ground, . . $500

And at another, they entrusted to Mr. Ellison £100 for defending the rights of the Church at Johnstown, ... $250

Grants for General and Public purposes.

1786, 3 lots of ground for the use of the Senior Pastors of the Presbyterian Congregations in this city.*

1765, An order was passed relative to the establishing a ferry from Roosevelt's Dock to Paulus Hook,

* Lots No. 255, 256 and 257 of the Church Estate, in Robinson-street, now Park Place, worth at least, it is supposed, at the present day, $50,000.

with conveyances of 2 lots to the Corporation for the purpose.*

1771, Contribution towards building a market on Hudson's river,† $500

1775, Appropriation of two lots on the north side of Vesey-street for a pier and slip.

1800, Towards building a market in Brannon-street, $250
Land appropriated for the same purpose in Duane-street.

* It being represented to the Board, that Alderman Roosevelt intended to propose to the Corporation of the City of New-York to grant and convey to them two water lots belonging to him, adjoining the water lots of this Corporation, upon condition that the ferry across Hudson River, between this city and Powles Hook, should be established and fixed from his said lots, but inasmuch as the said two lots will not be sufficient to accommodate the said ferry without the addition of so much of the water lots belonging to this Corporation adjoining the said two lots and of equal dimensions therewith, and this Board considering the conveniences and advantage arising to the public from said ferry: Thereupon Resolved, That they will also grant and convey to the said city Corporation two of their lots adjoining the said two water lots of Alderman Roosevelt, and of equal dimensions, for the use of the said ferry, but for no other use or purpose whatsoever, upon condition that the said ferry is to be established and fixed there forever; but if the said ferry shall be removed from thence, that then the said two water lots so granted by this Corporation for the use aforesaid, shall again revert and be in this Corporation.

† Whereas, The Oswego Market, now standing in the Broadway, is ordered to be removed, and it is proposed that a new one be erected on part of the lands upon Hudson's River belonging to this Corporation, for which purpose a subscription paper has been exhibited as well by a number of the Church Tenants as others northward of Partition-street, who have engaged to raise about Three Hundred Pounds towards erecting the said Market; Thereupon it is resolved and agreed, That this Corporation will also contribute the sum of Two Hundred Pounds towards building the said Market, and will release their right and claim to the ground on which the same is proposed to be built for the use of a Market forever, upon the condition that the Mayor, Aldermen and Commonalty of this city will grant and confirm to them the water lots agreeable to the prayer of the petition now before the said Mayor, Aldermen and Commonalty for that purpose.

And also for a market in Christopher-street, between Greenwich and Washington-streets.

1810, 2 lots of ground for a free school in Hudson-street.

1815, A further grant of lots of ground for the Free School Society.

Donations and allowances to aged and infirm Clergymen, and others, whose incomes were inadequate to their support.

1795,	The Rev. George H. Speerin, ...	$ 375
1796,	The Rev. Wm. Hammel, paralyzed at an early period in his ministry, and rendered incapable of self-support, who received an allowance of £100 per annum for thirty years, . . .	7,500
1796–99,	The Rev. Dr. Dibble, ...	625
1796–99,	Rev. Wm. Ayres, ...	625
	Rev. Dr. Bowden, ...	500
1797,	Mr. A. Lile, ...	185
1801–1814,	The Rev. Daniel Nash, . . .	1.150
1801,	Rev. R. G. Whitmore, . . .	450
1801–1804,	Rev. Henry Van Dyke, . . .	1.025
1801,	Rev. Philander Chase, . . .	250
1803–1806,	Rev. Peter A. Albert, Rector of the Church Du St. Esprit, ...	1,000
1803–1807,	Rev. Edmund D. Barry, assistant of the same, ...	1,250
1809,	Rev. John Reed, ...	200
1810,	Rev. Wm. Harris, Rector of St. Mark's Church,	1000
1810,	Rev. Wm. Smith, D. D., ...	500
1811–13,	Rev. Elias Cooper, Yonkers, . . .	750
1812–13,	Rev. William Powell, of Coldenham, .	500

1812–14,	Rev. Cyrus Stebbins,	$1,050
1812,	Rev. Joseph Perry,	450
1812,	Rev. Jonathan Judd,	250
1812.	Rev. John Brady,	125
1812,	Rev. Asa Cornwall,	100
1812–1816,	Rev. Ralph Williston,	2,250
1813,	Rev. Mr. Prentiss,	500
1813–14,	Rev. David Butler,	400
1813–14,	Rev. N. B. Burgess,	500
1814,	Rev. John Urquhart,	150
1814,	Rev. H. J. Feltus,	250
1826,	Bishop Croes,	250
1832,	Rev. Moses Burt,	150
1834,	Rev. Wm. R. Whittingham, on two occasions, being spontaneous gifts of the Vestry to him, on his going to Europe for the recovery of his health,	1,000
1835,	Rev. Eleazer Williams,	250
1835,	Rev. Dr. Hawks, as an agent of the General Convention, to collect materials, in England, for the History of the Church,	1,500
1835 to 1846,	To the Rev. Dr. Rudd, a faithful and valued servant of the Church, an annuity of $250,	2,750
1838,	Rev. G. Mills,	250
1838,	Rev. Dr. Seabury, for his highly acceptable services in the Parish, during a vacancy, (in addition to his salary),	1,000
1843–1847,	Donations, at different times, to the Rev. Dr. Lyell, Rector of Christ Church,	1,000
1846,	Rev. John Grigg,	300

Annuities to those who had, in a great measure, spent their lives in the Parish, and retired from infirmity and old age.

Annuity of £400 to Bishop Provoost, from 1801 to 1816, ...	$15,000
of £500 to Bishop Moore, from 1811 to 1816, ...	6,250
of £600 to Dr. Beach, from 1813 to 1829,	24,000
And to the families of those who had died in its service, ...	36,900

Gifts to officers of the Church, &c., &c., for their faithful services, in addition to their salary.

1837–1838,	To N. Andrews, Porter of the Vestry Office, ...	$400
1839–1841,	To the Collector, ...	600
1839,	Peter Erben, Organist, ...	300
1839,	R. Slack, Sexton, ...	150
1841,	To the widow of R. Slack, ...	250
1841,	To a labourer, at Trinity Church, who had broken his arm, ...	50

King's, now Columbia College.

1752, Grant of land in the centre of the city, between Murray and Barclay streets, and extending from Church street to the river, the present value of which is, perhaps, $400,000.

A great portion of this, however, being used for College purposes, and the residue, having been, for the most part, leased out on comparatively low rents, by the State, when it took

charge of the College, immediately after the revolution, the income of the property bears no kind of proportion to its value, and is entirely inadequate to the support of the Institution.

Since this note, however, was written, in 1847, there have been unexpected changes in the value of the property still remaining at the disposal of the College, from the gradual progress of business towards this part of the city, and which may, therefore, very probably, make the present value of the grant, . $500,000

Grants and Gifts to Institutions for the Promotion of Religion and Learning.

CHARITY SCHOOL, NOW TRINITY SCHOOL.

In the early history of the school, occasional gratuities were made to it by Trinity Church towards the support of the schoolmasters.

In 1748, ground was given for the site of the school, and the deficiency in the subscriptions for the building of a school-house made up by the Vestry.

In 1748, for the re-building of the same after it was burnt, ... $1,000

1800, A debt assigned to it of 5,276 87½

Seven lots of land, bounded by Lumber, Rector, and Greenwich streets, worth, in 1847, $35,000, but, at present, not less, perhaps, at a very low estimate, than . 50,000

	Donation of	$1,000
	Do of	7,500
	Do of	1,000
1832,	Grant of five lots of land, on Canal, Varick, and Grand streets, at a mere nominal rent, equivalent to a principal sum of, at least, ...	20,000
		$85,776 87½

Society for the Promotion of Religion and Learning.

1802,	. . . . .	$ 1,000
	32 lots of land in Barclay, Warren, Greenwich, Hudson, Beach and North Moore-streets, estimated, in 1847, at $120,000, but worth much more at the present time.	120,000
		$121,000

Rent paid for the African Catechetical Institute.

	. . . . .	$ 262
1808,	Appropriation towards the same, . . .	3,000
1819–1826,	Ground rent assumed by the Vestry, at $330 per year, ...	2,210
	Additional sum guarantied to it of . .	2,500
		$7,972

General Theological Seminary.

1825 or 1826,	Appropriation towards the building,	$1,000
	$3,393 17, the amount received under Godfrey Coon's Will paid to the Seminary and $750 interest, ...	4,143 17

1835,	Grant towards its library, . . .	$4,000
		$9,143 17

Education and Missionary Society.

1833,	Missionary branch, ...	$ 300
	Ann. allowance of $600 from Dec. 1839 to 1843,	2,400
1844,	Missionary Fund of the Diocese, . . .	250
1842,	Education Branch, ...	600
1843,	. . . . .	600
		$4,150

Washington College—Hartford, Connecticut.

1833,	. . . . .	$5,000

Episcopal Fund of the Diocese.

1836,	. . . . .	$30,000
1838,	House for the Episcopal residence, . .	20,000
1839 to 1843,	Allowance to the Bishop of $1,600 per annum, ...	6,400
	Donations of $1,200 on two different occasions,	2,400
		$58,800

City Mission Society.

1832,	Annual allowance of $600 from 1832 to 1834,	$ 1,200
1834–7,	Do of $1,100 . . .	3,300
1837–46,	Do of $1,800 . . .	16,200
1845,	Donation, ...	600
1847,	Do	1,200
		$22,500

Grants, donations and loans to Churches.

ST. MARK'S CHURCH, NEW-YORK.

1795,	. . . . .	$12,500 00
1798,	(There are no means of ascertaining from the minutes of the Vestry, whether this was an additional grant or a part of the former one,)	5,088 81¼
	. . . . .	181 87
	. . . . .	500 00
	Two annual donations to Dr. Harris, the Rector, and noticed before under another head, ...	1,000 00
	To which sums the following endowment in land on the Church was added:	
	5 lots in Warren-street,	
	1 in Church "	
	12 in Reade "	
	3 in Harison "	
	2 in Greenwich "	
	5 in Provoost "	
	28, which were worth, perhaps, in 1847, $131,500, ...	131,500 00
		$150,770 68¼

From the sudden and almost magical change in the value of property between Fulton and Reade streets, in consequence of the advance of business to that portion of the city, the value of the 17 lots in Reade and Warren streets at the present time is probably doubled.

Grace Church, New-York.

1804, ...	$3,750	
. . . . .	1,000	
1805, ...	15,000	
1810, For the organ	1,500	
1811, Assignment of a mortgage for . .	7,320	50

Grace Church was also built at the expense of this Corporation, for which the latter received no reimbursement, except in the sum arising out of the sales of pews, amounting to $30,000.

In return for this, Trinity Church, with a wise forecast, and most benevolent intent, made a still further grant to Grace Church of several lots of land.

7	of which were	on Rector-street,
2	"	on Vesey,
3	"	on Barclay,
2	"	on Warren,
5	"	on Chambers,
2	"	on Church, and
4	"	on Reade,

25 in all.

In referring to the minutes of the Vestry for the prices at which lots sold, the twelve of those which were on Chambers, Warren, Barclay, and Vesey streets were worth $40,000 at the time; and the thirteen on Rector, Church, and Reade streets, at least $26,000. The value of the whole number was stated to be, in 1847, $120,000. But at the present time, it is doubtless doubled.

St. George's Church.

Donations in a variety of ways, . . .	$5,104 62
. . . . .	14,000
. . . . .	184 25
. . . . .	30,946 83

Besides the grant of the following lots of land:

8 on Reade and Church streets,
4 on Greenwich street,
6 on Murray "
9 on Chambers "
4 on Warren "
1 on Barclay " and
1 on Beekman "

33 in all; the estimated value of which, in 1847, was $170,000. 170,000

$220,235 70

The present value of these lots is at least two-fold of that sum.

With such liberal arrangements in the case of Grace Church, and such noble gifts and ample endowments to St. Mark's and St. George's, does the charge of niggardliness against Trinity Church come from this quarter with decorum and grace? Could it have been supposed that this munificent Corporation would ever be made, as it has lately been in a public assembly, the object of denunciation and menace, of sarcasm, vituperation, and scorn, with tongues steeped in the gall of bitterness, and imaginations luxuriating in

all the wantonness of abuse, by the very persons who were sharing most largely in its bounty? Whether such a violation of the law of kindness and all the amenities of social life can be reconciled with right feeling, common courtesy, and Christian fellowship, I leave to the calm consideration and righteous judgment, not only of those who hold the truth in love, but even of candid, worldly men.

But this is not the only view of the case. It is confidently believed, and as it is thought on very good grounds, that the united incomes of St. Mark's Church, Grace Church, and St. George's, are equal at least to one-half of the net income of Trinity Church itself. If this conjecture be true, then, after all the suitable arrangements in these parishes are made, and all needful expenses incurred, there would still remain a considerable surplus beyond their own proper and peculiar wants. Now, what becomes of this surplus? To what purposes is it applied? To whom is it a boon, a blessing, and relief? I have never learned, neither have I ever met with a man who had. If, however, it is generously and beneficently applied to the good of others, it can then only be said that their reputation for liberality has suffered unjustly, in the public estimation, from their modesty. But, even though they may have acted on the principle of not letting the right hand know what the left hand doeth, it may still be doubted whether, in proportion to their means, they have exercised their bounty on a more liberal scale, or on broader and more comprehensive

grounds than Trinity Church has done, freely and indiscriminately, not partially and inquisitorially, nor with the nice regard to the peculiar views and party feelings of those on whom it is bestowed, which too often directs and controls it in the case of others.

Oct. 13, 1855.

Grants, Donations and Loans to other Churches.

1795,	St. Peter's, Westchester	$750
1796,	do. do.	500
1809,	5 lots of ground on Reade, Chambers and Warren streets. The value of which was, in 1847, about	22,500
	But now at least double.	
		24,750
1796,	Christ Church, Hudson, Columbia Co. .	2,000
1802,	do. do. . . .	1,500
1796,	St. Peter's, Albany	6,250
1801,	do. do.	300
1797,	St. George's, Flushing, L. I. . . .	1,250
1820,	do. do. . . .	1,000
1809,	3 lots of ground in Warren-street, and 2 in Chambers-street, worth, in 1847, about .	19,500
	But the value of which is now very greatly increased.	
		21,750
1797,	Grace, Jamaica, L. I.	1,250
1809,	3 lots in Lumber-street, and 1 in Reade-street, worth perhaps, in 1847, about . . .	18,500
	But now much more.	
1820,	. . . . .	1,000
		20,750

1792,	St. James's, Newtown, L. I. . . .	$1,250
1809,	1 lot in Reade-street, 1 in Greenwich-street, and 2 in Lumber-street, worth perhaps, in 1847, ...	20,000
	But at present much more.	
		21,250
1797,	St. Anne's, Brooklyn, L. I. . . .	1,000
1804,	do. do.	2,000
1809,	2 lots of ground in Chambers-street, worth perhaps, in 1847, ...	13,000
	But at present, double that sum.	
		16,000
1798,	Christ Church, Poughkeepsie . . .	1,250
1810,	do. annual allowance of $250 for 5 years	1,250
1813,	do. do. for the Rector	250
1797,	Trinity Church, New Rochelle . . .	1,250
	Trinity do. Fishkill Village . .	1,000
1813,	. . . . .	500
	For the Rector	250
	St. Philip's Church, in the Highlands .	750
1797,	St. Peter's do. Peekskill . . .	750
1797,	St. James's do. Goshen . . .	1,250
1814,	do. do. do. . . .	625
1833,	do. do. do. . . .	1,500
1797,	To the Church at New-Stamford . .	500
1802,	St. Peter's do. Stamford . .	200
1808,	St. John's do. Stamford, Conn. .	300
1797,	To the Church at Salem or Campden .	500
1797,	Constantia, Lake Oneida	625
1830,	do. do.	500
1797,	To the Church at Ballston . . .	625

1797,	To the Church at Duanesburgh . .	$750	
1804,	do. do. do. . .	1,000	
1806,	do. do. do. . .	500	
1807,	do. do. do. . .	250	
1800,	To the Church on Staten Island, north side	1,000	
1802,	St. Andrew's, Staten Island . .	1,000	
1800,	For parsonage at Yonkers . . .	500	
1801,	do. do. . . .	250	
1800,	do. Rye . . .	750	
1813,	Christ Church, at Rye . . .	500	
	St. James's, Milton, Saratoga Co. .	248	80
	For the Rector	150	
1802,	Church at Burlington . . .	60	
	Church at Otsego	60	
1803,	St. Luke's, Catskill	2,000	
1804,	do. do.	1,000	
1811,	do. do.	2,600	
1804,	St. George's, Schenectady, . .	1,000	
1808,	do. do.	300	
1809,	do. do.	300	
1804,	Church at Philipsburgh . . .	300	
	Churches at Lansingburgh and Waterford	2,500	
	St. Paul's Church, at Troy . .	2,000	
	Church at North-Hempstead . .	2,000	
	Churches at Bedford and New-Castle .	1,000	
1808,	do. do. do. .	150	
1804,	St. Paul's, Charlton	1,000	
1836,	do. do.	100	
1805,	St. Stephen's, New-York . . .	300	
1807,	2 lots in Warren-street, to ditto, worth, in 1847, ...	13,000	
	But now at least double that sum.		
	Bonds granted to the same, amounting to	7,194	50

1813,	Donation of	$250
	do. to the Rector . . .	250
1829,	Annual allowance of $600, from Nov. 1, 1828, to Nov. 1, 1842, . . .	8,400
	Donation	1,500
1831,	do.	500
1842 to 1846,	Annual allowance of $300 .	1,200
1846,	Annual allowance increased to $500 from Nov. 1.	
		$32,594 50

1806,	Christ Church, Cooperstown, (on conditions which it is presumed were fulfilled) .	1,500
1806,	St. John's, Huntington, L. I. . .	300
1807,	do. do. do. . .	250
1807,	St. Michael's, Bloomingdale, N. Y., a donation towards the building of . .	2,000
1809 to 1813,	Revenue for St. Michael's and St. James' of $500 per annum . .	2,000
1809,	Grant of 6 lots of ground to ditto, in Chambers, Vesey, and Warren streets, worth perhaps, in 1847, . . .	39,000
	But now at least double that sum.	
1809,	St. James's, Hamilton Square, N. Y., a donation towards the building of . .	3,000
1813,	To satisfy existing debts, . . .	800
	Grant of 4 lots of ground to ditto, in Chambers and Barclay streets, worth perhaps, in 1847, ...	26,000
	But now double that amount.	
	To these two churches respectively, if they continued connected, a donation of $700 each, ...	1,400

In June, 1825, by resolution, the allowance to these churches was restricted to the difference between $1,700 and the aggregate amount of rents then payable, or thereafter on any renewals of the leases payable on these 10 lots granted; and as soon as the rents should in the aggregate amount to $1,700, the annual allowance was to be wholly discontinued. From 1826 the allowance was gradually reduced to about $150 per annum, and entirely ceased in 1832		$900
		$75,100
1805,	Christ Church, New-York, 4 lots in Barclay-st., worth, in 1847, about	24,000
	But now at least double that sum.	
	Communion plate, worth, perhaps, . .	100
1809 to 1846,	$500 per annum to the Rector .	18,500
1813,	$250 towards the support of the Rector .	250
1814,	$250 do do do . .	250
1827 to 1835,	Annual allowance to Christ Church of $600	4,800
1835,	Grant of	25,000
1846,	Allowance to Assistant Minister . .	300
1843 to 1847,	Donations to the Rector* . .	1,000
		$74,200
1807,	Caroline Church, Setauket, . . .	800
	Islip	500
	Trinity, Utica	2,000
1809,	3 lots of ground to ditto, in Reade-street, and 1 in Clark, present value about . .	12,500
	Since materially increased.	

* Noticed before under another head.

1807,	To the Church at Portsmouth, N. H. .	$1,000
	Trinity, Geneva	1,500
1813,	do do. for the Rector . . .	250
1807,	St. Peter's and St. Philip's . . .	1,250
1808,	Expense of the printing of the Proceedings of the General Convention * . . .	304 21
1809,	St. John's, Johnstown, ...	400
1810,	Trinity, Newark, N. J., ...	1,000
1811,	Zion Church, N. Y., $900 per annum granted to it for 5 years, ...	4,500
1811,	do do	720
1815,	do do	5,000
1820,	do do	20,000
1831,	do do	8,000
1836,	do do	1,000
1846,	do do annual allowance of $300 from May 1st, ...	150
		$39,370
1811,	Trinity, Fairfield, ...	500
1813,	do do ann. all. for 7 years of $250,	1,750
	do do do do. for the Rector,	1,750
	do do do do. further sum of $250, ...	1,750
		$5,750
1811,	Caroline Church, Brookhaven, . . .	500
	And an annual allowance for 2 years of $125,	250
1812,	To the Church at Hamilton, St. Lawrence Co.,	3,000
1812 to 1846,	St. James', Hyde Park, ann. allowance of $250, ...	8,500
1813,	St. James's, North Salem, . . .	1,000

* For many years the expense of printing the Journal and other documents of both the General and State Conventions was defrayed by Trinity Church

1813,	Trinity Church, Rensselaerville, for the Rector,	$250
	Christ Church, Hampton, for the Rector, .	150
	St. Paul's, Paris, for the Rector, . .	250
	St. Peter's, Aurelius, for the Rector, .	250
1813,	Trinity, Athens, ...	3,000
	St. Matthew's, Unadilla, ...	1,400
	Christ Church, Manlius, ...	1,000
1818	St. George's, Newburgh, ...	3,000
1819,	St. John's, Canandaigua, . . .	1,500
	To the Church at Windham, . . .	500
1830,	Du St. Esprit, annual allowance of $250, from 1830 to 1843, ...	3,250
1830 to 1846,	St. Andrew's, Harlem, $300 per ann.,	4,800
1832,	do do do grant of .	4,000
1840,	do do do do .	100
		$8,900
1831,	St. Clement's, annual allowance of $600 from Nov. 1, 1830, to Nov. 1, 1842, . .	7,200
1836,	do do grant of	15,000
1844,	do do the old organ of St. John's given to it.	
1842,	do do annual allowance of $400 from 1842 to 1846, ...	1,600
		$23,800
1820,	St. Luke's, New-York, 3 lots in Hudson-street,	
1827,	do 2 lots adjoining—and	
1834,	do 3 lots more, value at least, in 1847, Since materially increased.	30,000
1827 to 1831,	Annual allowance of $400, . .	1,600
1831 to 1842,	do do increased to $600	6,600

1838, Grant of	$10,000
1842 to 1846, Ann. allowance reduced to $400,	1,600
1846 to 1847, do do increased to $500,	500
1846, Donation, ...	1,500
	$56,800

1827 to 1842, St. Mary's, Manhattanville, annual allowance of $300, ...	4,500
1842 to 1845, Annual allowance reduced to $200,	600
1836, ...	1,289 13
	$6,389 13

1827, St. Thomas', New-York, annual allowance of $600 from May 1, 1828, to Dec. 12, 1842,	$8,100
1828, do gift of	3,000
1831, do grant of	20,000
1842, Annual allowance of $300 from Dec. 12, 1842, to same date, 1846, ...	1,200
	$32,300

1827, All Saints, N. Y., annual allowance of $600 from July 30, 1827, to Dec. 12, 1842, .	9,000
1829, do loan of	8,000
1831, do donation of	5,000
1838, do grant of	6,000
1839, do additional grant of	2,000
1842, do ann. all. of $300 to May, 1845, .	750
1845, do do of $500 from May 1, 1845, to Nov. 1, 1846, ...	750
	$31,500

1829 to 1842,	Church of the Ascension, N. Y., $600 per annum,	$7,800
1842 to 1846,	$300 per annum,	1,200
1835,	1 lot in Vesey-street, worth, in 1847, about But now at least double that sum.	6,500
		$15,500
1835,	St. Philip's Church, New-York,	9,000
1838,	do do	2,000
1826 to 1843,	Annual ground rent of $330 paid by Trinity,	5,610
1843,	Annual allowance of $300,	300
1843 to 1846,	Annual allowance of $400,	1,200
		$18,110
1831,	St. John's, Delhi,	950
1832,	St. Peter's, Greenwich, donation of	1,000
	Annual allowance of $300, from Feb. 4, 1832, to 1834,	600
1833,	Donation of	1,000
1834,	Aug. 4, ann. all. of $600, from 1834 to 1842,	4,800
1837,	Grant of	25,000
1842,	Annual allowance of $500, from 1842 to 1846,	2,000
		$34,400
1832,	St. Peter's, Auburn,	2,500
	St. Luke's, Rochester, $600 per ann. for 2 years,	1,200
1833,	St. John's, Brooklyn, grant of	4,000
1833,	Christ Church, Ballston,	500
	St. Paul's, Albany, grant of	5,000
	Trinity, Ulster,	1,000
	St. John's, Angelica, Alleghany Co.,	800

1833,	St. John's, Monticello, ...	$1,500
	St. Andrew's, Walden, ...	600
	St. Mark's, Hunt's Hollow, . . .	500
	St. John's, Sheldon, donation of . .	300
	Trinity, Watertown, grant of . . .	1,000
1834,	do do do . . .	500
1833,	St. John's, Medina, ...	1,000
	St. Paul's, Mosquito Cove, L. I., . .	500
1834,	Calvary, Cairo, Greene co., . . .	500
	St. Mark's, Le Roy, Genessee co., . .	500
	Trinity, Constantia, Oswego co. . .	500
	Trinity, Hector, ...	200
1833,	St. Paul's, Syracuse, ...	1,000
1834,	do do	800
	Grace, Rochester, ...	3,500
	St. John's, Sodus, Wayne co., . . .	450
	St. Peter's, Westfield, Chautauque co., .	320
	St. Anne's, Fishkill Landing, . . .	500
1837,	do do do . . .	250
1838,	do do do . . .	500
1834,	Christ Church, Gilbertsville, Otsego co., .	400
	Trinity Church, Elmira, Chemung co., .	500
1836,	do do do . .	300
1834,	Zion Church, Greene, Chenango co., . .	500
	Grace Church, Mount Upton, Livingston co.,	250
	Trinity Church, Seneca Falls, Seneca co., .	500
1836,	do do do .	500
1834,	Christ Church, Sherburne, Chenango co., .	500
1833,	St. John's, Kingston, Ulster co., . .	1,000
1837,	do do do . . .	500
1839,	do do do . . .	200
1833,	Zion Church, Greene, Wayne co., . .	500

1833,	Emmanuel Church, Norwich, Chenango co.,	$500
1836,	do. do. do. .	250
1833,	Grace Church, Whiteplains, Westchester co.,	750
1833,	St. Matthew's, Jersey City, N. J., . . .	1,000
1834,	St. Paul's, Turin, ...	600
	Church of the Nativity, N. Y., . . .	4,000
1835,	do. do.	1,000
	Annual allowance of $300 for about 10 years, .	3,000
1838,	. . . . .	1,000
1846,	. . . . .	300
		$9,300

Annual allowance increased $100 from Nov. 1.

1835,	Zion Church, Wappinger's Creek, Dutchess co., .	500
1836,	do. do. do. . .	250
1835,	Emmanuel Church, Little Falls, Herkimer co.,	1,500
	St. John's, Cohoes, Albany co., . . .	500
	St. Mark's, Jamesville, Onondaga co., . .	400
1834,	Christ Church, Guilford, Chenango co., . .	500
	Zion Church, Rome, Oneida co., . . .	500
	St. James's, Catlin, Tioga co., ...	300
	St. Michael's, Geneseo, Livingston co., . .	500
1835,	Christ Church, Danby, Tompkins co., . .	250
	St. Paul's, Tompkinsville, Staten Island, . .	2,000
1833,	Christ Church, Oswego, ...	1,000
	Christ Church, Walton, Delaware co., . .	500
	St. Peter's, Oriskany, Oneida co., . . .	500
	The Apostolic Church, Geddes, Onondaga co., .	500
	St. James's, Hammond Port, Steuben co., . .	500
	St. Thomas's, Bath, Steuben co., . . .	500
	St. Paul's, Durham, Greene co., ...	500
	St. Paul's, Brownville, Jefferson co., . .	500

1833,	Trinity, Fredonia, Chautauque co., . . .	$500
	St. Paul's, Big Flats, Tioga co., ...	500
	Calvary, Homer, Cortland co., . . .	500
	Christ Church, Morristown, St. Lawrence co., .	500
1835,	Zion Church, Avon, Livingston co., . . .	500
	Christ Church, Lockport, Niagara co., . .	1,000
	St. John's, Fort Hamilton, King's co., . .	500
	Trinity Church, Centreville, Ontario co., . .	300
	St. John's, Medina, Orleans co., . . .	1,500
1835,	St. John's, Troy, ...	1,000
	St. Thomas', Mamaroneck, ...	300
1836,	do. do	500
	Calvary, New-York, ...	1,600
1837,	do ann. all. of $400 from 1837 to 1842, .	2,000
1842,	do do $300 from 1842 to 1846, .	1,200
1847,	do Grant of	18,000
1836,	Emmanuel Church at Otsego, Otsego co., . .	750
	St. Paul's, Holland Patent, Onondaga co., .	750
	Trinity, Potsdam, St. Lawrence co., . .	1,500
	St. John's, Ellicotsville, Cattaraugus co., . .	600
	Christ Church, Oyster Bay, L. I., . . .	600
	St. George's, Astoria, ...	1,000
	St. Paul's, Waterloo, Seneca co., . . .	250
1837,	do do do	400
1836,	St. Paul's, Sing Sing, Westchester co., . .	2,000
	Trinity, Brooklyn, L. I., ...	1,500
	St. Paul's, Lewistown, Niagara co., . . .	600
	St. Paul's, Peekskill, Westchester co., . .	750
1837,	do do do	250
1836,	St. Mark's, Candor, Tioga co., ...	400
	St. Luke's, Half Moon, Mechanicsville, Saratoga co., ...	350
	St. Paul's, Hoboken, N. J., ...	1,000
	St. John's, Mount Morris, Livingston co., .	750

	St. James's, Batavia, Genesee co., .	$1,000
	St. Peter's, Bainbridge, Chenango co., . .	300
	St. Stephen's, Olean, Cattaraugus co., . .	750
	Christ Church, Paterson, Putnam co., . .	750
	St. Mark's, Penn Yann, Yates co., . . .	1,000
	Trinity, Fayetteville, Onondaga co., . .	400
	Zion, Palmyra, Wayne co., ...	500
1837,	St. Paul's, Saratoga, ...	100
	St. Bartholomew's, N. Y., ann. all. of $600 from 1837 to Dec. 12, 1842, ...	3,300
	. . . . .	20,000
1842,	Ann. all. of $300, from Dec. 12, 1842, to May 1, 1846, ...	1,050
1846,	Ann. all. of $600, from May 1 to Nov. 1, .	300
		$24,650
1837,	St. George's, Hempstead, ...	500
	St. John's, Cold Spring Harbour, . . .	500
	Trinity, West Troy, ...	800
	. . . . .	200
	St. John's, Johnson's Settlement, Chemung co.,	300
	Christ Church, Tarrytown, Westchester co., .	1,000
1837,	St. Anne's, Port Jackson, Montgomery co., .	1,500
1838,	do do do . . .	500
	St. Paul's, Poughkeepsie, ...	2,500
1839,	do do	2,500
	St. Paul's, Waterloo, Seneca co., . . .	400
	St. Peter's, Peekskill, W. C., ...	1,000
	St. Paul's, Flatbush, King's co., L. I., . .	1,000
	St. Peter's, Lithgow, Dutchess co., . . .	200
	Grace, Lyons, Wayne co., ...	2,000
1838,	Church of the Messiah, N. Y., ann. all. of $300 to commence Dec. 1, 1837, ...	300

1839,	$150 paid	$150
	Ann. all. to commence anew from Oct. 1, 1838.	
1838,	Church of the Annunciation, N. Y., ann. all. of	
	$600 from 1838 to 1842, ...	2,400
1839,	. . . . .	6,000
1842,	Ann. all. of $400 from 1842 to 1846, . .	1,600
		$9,400
	St. Luke's, Brooklyn, ...	1,500
1843,	Church of the Redemption, N. Y., . . .	375
1844 to 1846,	. . . . .	800
1845,	St. Mark's, Williamsburgh, L. I., ann. all. of	
	$300 from May 1, 1845, to Nov. 1, 1846, .	450
1845,	Prot. Ep. Ch. Miss. Society for Seamen, ann. all.	
	of $250 from 1844 to 1846, ...	500
1846,	Additional allowance of $250 from Nov. 1, 1846.	
1845,	St. Simon's, N. Y., ...	200
1846,	do do	200
1845,	Holy Apostles', N. Y., ...	300
1846,	do. do	5,000
	St. George the Martyr, N. Y., ...	250
1846,	Church of the Messiah, N. Y., ...	125
	St. Luke's, Rossville, Staten Island, . .	1,500
	Christ Church, Troy, ...	2,500
	Chapel for Soldiers, on Governor's Island, appro-	
	priation made, but not yet paid, . . .	500
	Christ Church, Sag Harbour, ...	500
	Christ Church, Marlborough, Ulster co., . .	300
	Grace, Cherry Valley, Otsego co., . . .	300
	St. Thomas's, Hamilton, Madison co., . .	300
	St. James's, Fort Edward, Washington co., .	300
	St. Mark's, Malone, Franklin co. . . .	400

	Church of the Cross, Ticonderoga, Essex co., .	$400
	St. Paul's, Pleasant Valley, Dutchess co., .	500
1847,	Church of St. George the Martyr, N. Y., . .	250
	Church of the Good Shepherd, N. Y., . .	200
	St. Mark's, Williamsburgh, ...	200

Gifts, Grants and Loans from 1847 *to* 1855 *inclusive.*

Jan. 11, 1847,	Christ Church, Dr. Lyell, . .	250
	Annual allowance of $400 from May 1, 1848, to Nov. 1, 1855, . . .	3,000
		$3,250
April 12,	Church of the Epiphany, to the Rector,	75
	Annual allowance of $400 from the 1st of May, 1847, to Nov. 1, 1849, .	600
1850,	Donation, $300	300
	Annual allowance of $300 from 1852 to 1855, ...	900
June 12, 1848,	. . . . .	6,500
		$8,375
	St. Andrew's, Harlem, annual allowance of $300 from 1847 to 1855, .	2,400
	Holy Apostles', annual allowance of $300 from 1847 to 1855, . .	2,400
April 12,	Holy Evangelists', to the Rector, .	75
	Annual allowance of $400 from the 1st of May, 1847, to the 1st of Nov., 1849, ...	600
June 12, 1848,	. . . . .	6,500

June 12, 1848,	Annual allowance of $300 from Nov. 1, 1849, to Nov. 1, 1851, . .	$600
	Annual allowance of $500 from 1851 to 1854, ...	1,500
	Annual allowance of $1,200 from 1854 to 1855, . . .	1,200
	For the purchase of St. George's Chapel, in Beekman-street and ground, made over to the Church of the Holy Evangelists—assessments, repairs, alterations, and other expenses, ...	55,660 33
	Besides an engagement to build a Sunday School-room after the widening and regulating of Cliff-street.	
		$66,135 33
April 12,	St. Matthew's Church, to the Rector,	75
	Annual allowance of $400 from the 1st of May, 1847, to the 1st of Nov., 1849, ...	600
	Annual allowance of $300 from Nov. 1, 1849, to Jan. 1854, . .	1,250
Jan., 1854,	Annual allowance of $100 additional for five years, to commence 1st of May next—of this increased allowance of $500, the sum of $750 is, I suppose, already paid, . .	750
		$2,675
	Zion, N. Y., annual allowance of $300 from 1847 to 1855, . . .	2,400
Nov. 11, 1850,	St. George's, Beekman-street, to maintain services, ...	400

June 28, 1847,	Church of the Nativity, towards the building of the same, . . .	$5,000
Nov. 26, 1849,	Towards do . . .	4,000
Jan. 8,	. . . . .	175
Oct. 8,	. . . . .	175
Nov. 12,	. . . . .	175
May 13, 1850,	. . . . .	350
June 10,	. . . . .	1,211
Oct. 3, 1853,	For Parochial School, . . .	200
May 8, 1854,	. . . . .	150
May 24,	Towards Parochial School, . .	100
Nov. 13,	do do do . .	200
March 12, 1855,	. . . . .	150
Oct. 8,	. . . . .	250
	Annual allowance of $300 from 1847 to May 1, 1852, ...	1,350
	Annual allowance of $400 from May 1, 1852, to Nov. 1, 1855, . .	1,400
		$14,886
Sept. 13, 1847,	St. John's, Stockport, Columbia Co.,	1,000
	All Saints', annual allowance of $500 from 1847 to 1855, . . .	4,000
	St. Stephen's, annual allowance of $500 from 1847 to 1855, . .	4,000
June 14, 1847,	Trinity Church, Albany, annuity of $300 for five years, . . .	
Sept. 13,	Annuity increased to $350 until the Vestry pay the sum of $5,000, .	5,000
July 12, 1847,	St. Cornelius's, Governor's Island, to June 27, 1849, donations, $500 .	500
Jan. 13, 1851,	donation, $200	200

Jan. 12, 1852,	$200
Feb. 14, 1853,	200
Jan. 9, 1854,	200
Jan. 8, 1855,	200
	$1,500
Jan. 10, 1848, St. Luke's, New-York,	1,300
Continuance of the ann. allowance of $400 to the 1st of May, 1850,	800
Oct. 13, 1851,	400
From 1851 to 1855, Annual allowance of $900	3,600
July 9, 1855, Rev. Mr. Tuttle,	500
	$6,600
St. Philip's, annual allowance of $400, from 1847 to 1855,	3,200
April 23, 1849, Grant of	500
	$3,700
St. Peter's, annual allowance of $400, from 1847 to 1855,	3,200
Feb. 14, 1848, Church of the Messiah, colored congregation, donation,	125
Feb. 12, 1849,	125
Dec. 10,	125
July 15, 1850,	125
Oct. 24, 1853, from the 1st of May next,	200
Jan. 9, 1854,	200
Feb. 13,	200
Dec. 11,	125
	$1,225

Feb. 14, 1848,	St. Simon's, German Church, New-York, donation, ...	200
Mar. 12, 1849,	. . . . .	200
Jan. 9, 1854,	. . . . .	200
Dec. 11,	. . . . .	200
		$800

Feb. 14, 1848, To the Church at Honesdale, marble font, designed by Ball Hughes.

April 10,	Mrs. Dr. Lyell, ...	250
May 8,	Mrs. Wm. H. R.	100
May 8,	Grace Church, Brooklyn, annuity of $1,000 for 15 years, . .	15,000
June 12,	St. Paul's, Richmond, Western N. Y. .	500
	Christ Church, Shelburne, do. .	400
June 12, 1848,	Church of the Holy Martyrs, . .	200
Oct. 8, 1849,	. . . . .	200
July 10,	Donation, ...	200
April 8, 1850,	. . . . .	700
May 13,	. . . . .	200
Nov. 11,	. . . . .	200
		$1,700
June 12, 1848,	Grace Church, South Oyster-Bay, an annuity of $100 for 4 years, . .	400
Sept. 19,	James A. Sparks, Clerk of St. Paul's Chapel, ...	300

Sept. 19,	Church of the Annunciation, annual allowance of $400, from 1846 to 1848, ...	$800
	Do $900, from 1848 to March, 1853, ...	4,500
	Afterwards interest on $20,000, till that sum be paid, . . .	20,000
Mar. 21, 1853,	. . . . .	5,000
		$30,300
	St. Clement's, ann. allowance of $400, from 1847 to 1855, . .	$3,200
	St. Mary's, Manhattanville, ann. all. of $200, from 1848 to 1855, . .	1,400
	St. Barnabas', N. Y., ann. all. of $200.	
Mar. 12, 1854,	Rev. Mr. Weaver, to pay off debt of St. Barnabas', ...	200
	Church of the Advent, ann. allowance of $200, from May 1, 1847, to Nov. 1, 1855, ...	1,500
Sept. 17, 1848,	Trinity Church, Granville, annuity of $75 till the principal of $1,000 be paid, ...	1,000
Oct. 9, 1848,	Church of the Intercession, Carmansville, annuity of $100 till the principal of $1,000 be paid, . . .	1,000
	Annuity of $200, from Nov. 1, 1853, to Nov. 1, 1855, ...	400

Nov. 11,	The Rev. Mr. Clapp, . . .	$100
Jan. 12, 1852,	. . . . .	100
Dec. 11,	Mrs. Dr. Rudd, ...	125
	St. John's, Clyde, Western N. Y., .	250
	Church at Clayville, Oneida co., Western N. Y., annuity of $100 until $1,000 be paid, ...	1,000
	St. James's, Pulaski, ...	200
	Bethesda Church, Saratoga, an annuity of $200 for 5 years, . . .	1,000
Mar. 12, 1855,	Emmanuel Church, N. Y. . .	800
	Ann. all. of $300, from 1847 to 1855,	2,400
June 10, 1855,	. . . . .	100
		$3,300
Feb. 12, 1849,	Christ Church, Sag Harbor, . .	700
July 9, 1855,	In four annual instalments of $200, .	800
		$1,500
Feb. 12,	St. Paul's, Williamsburgh, . .	200
Dec. 10,	. . . . .	200
		$400
	Seamen's Mission, $600 per annum, from 1847 to 1853, . . .	3,600
	do $800 per annum, from May 1, 1853, to Nov. 1, 1855, .	2,000
		$5,600
April 9, 1849,	Plot of ground in Trinity Cemetery, to the N. Y. Institution for the blind.	
Sept. 16, 1851,	do for the Orphan Asylum.	

Nov. 10,	Plot of ground in Trinity Cemetery, for the Prot. Epis. Mutual Benefit Society.	
Dec. 8,	do for the Rector of St. Stephen's, and his successors.	
	Do to the Society for the relief of aged and indigent females.	
Mar. 27, 1854,	do for the Orphan's Home.	
April 23, 1849,	Emmanuel Church, Adams, W. N. Y.,	$250
Oct. 8,	Grace Church, Norfolk, . . .	500
Oct. 8,	St. John the Baptist, annual allowance of $200, from 1849 to 1855,	1,200
Oct. 14, 1850,	. . . . .	800
		$2,000
Nov. 26,	Rev. H. Jelliff, ...	100
Sept. 17, 1850,	. . . . .	100
Nov. 11,	. . . . .	100
Feb. 10, 1851,	. . . . .	100
Nov. 10,	. . . . .	100
May 9, 1853,	. . . . .	100
June 11, 1855,	. .	50
		$650
Feb. 11, 1850,	Church of the Transfiguration, annual allowance of $200, from Nov. 1, 1849, to May 1, 1852, . . .	500
	Do of $300, from May 1, 1852, to Nov. 1, 1855, ...	1,050
Mar. 8, 1852,	. . . . .	200
Sept. 25,	. . . . .	200
		$1,950

Feb. 11, 1850,	St. Paul's, Owego, W. N. Y., $70 per annum for 8 years, . . .	$560
	St. Stephen's, Schuylerville, . .	200
May 13,	Church of All Angels', . . .	150
	Annual allowance of $200, from 1852 to 1855, ...	700
		$850
June 10,	Trinity, Windham, $200, increased May 9, 1853, to	300
	To Samuel Maynard, a member of the choir of Trinity Church, . .	150
	Christ Church, Manlius, . . .	100
July 15,	St. Thomas', Mamaroneck . .	600
Sept. 17, 1850,	St. Paul's, Flatbush, . . .	250
	Church of the Good Shepherd, annual allowance of $200 from 1847 to 1855, ...	1,600
	Rev. Ralph Hoyt	100
Mar. 10, 1851,	. . . . .	100
April 12, 1852,	. . . . .	100
Oct. 11,	. . . . .	100
Mar. 14, 1853,	. . . . .	100
		$2,100
Oct. 14,	St. James's, Theresa, W. N. Y., . .	250
Nov. 2,	Christ Church, Whitehall, . .	1,000
Feb. 11,	Rev. Benjamin Evans, . .	100
Jan. 13, 1851,	. . . . .	100
Mar. 27, 1854,	. . . . .	300

Feb. 10,	Bishop Upfold, an annuity of $250 for three years, on account of past services in the Parish, . . .	$750
	Dr. Ogilby, on his journey to Europe in pursuit of health, . . .	500
Mar. 10,	Gift for the design of the church at Copake, Columbia county, . .	100
Jan. 12, 1852,	. . . . .	150
Ap. 14,	St. Paul's, Kinderhook, . . .	1,000
May 28, 1851,	Christ Church, Troy, . . .	2,500
	Foreign Mission at Cape Palmas, an annuity of $250 until $5,000 be paid, ...	5,000
	Offering at the Communion for Diocesan Missions	3,000
July 14,	Trinity Church, Watertown, . .	600
	Trinity, Redwood, ...	200
	Dr. Schroeder, ...	1,000
Mar. 8, 1852,	. . . . .	750
July 14,	St. Luke's, Brooklyn, in six annual instalments, ...	450
Oct. 13, 1851,	Grace Church, Norfolk, for the Rev. Mr. Hanson, . . .	212 50
Nov. 10,	Grace Church, Canton, . .	250
Nov. 14,	Annuity in perpetuity of $3,000 to Geneva College, until $50,000 be paid, ...	50,000
Dec. 8,	St. James's, Williamsburgh, colored congregation, ...	100
	Grace Church, South Middletown, .	1,750
	Grace, Albany, in two equal annual payments, ...	1,000

Dec. 10	Grace Church, Nunda, . . .	$400
Jan. 12, 1852,	St. Paul's, Brooklyn, . . .	200
Dec. 13,	. . . . .	200
Dec. 19, 1853,	Allowance to be continued of $200, .	200
Dec. 11, 1854,	. . . . .	200
		$800
Feb. 9,	Zion Church, Rome, ...	1,000
April 12,	All Saints', Brooklyn, . . .	300
June 14, 1852,	Trinity Church, Fishkill, . . .	500
	Trinity College, Toronto, Canada West,	1,000
July 12,	Calvary, Utica, ...	500
	Grace, Waterville, towards Church and Parsonage, ...	1,000
	Grace, South Oyster-Bay, . . .	400
	St. Mary's, Beekman, . . .	400
	Church and school, at Dearman, .	1,000
	St. George's, Flushing, in four annual instalments, ...	2,000
Nov. 8,	Trinity, Fairfield, ...	100
Dec. 13,	St. Thomas', Hamilton, Western N. Y.,	200
	Rev. Mr. Leonard, ...	150
Jan. 16, 1853,	Rev. Mr. Gallaudet, for Deaf Mutes,	300
Dec. 19,	do.	300
Dec. 11, 1854,	St. Ann's, do., .	200
		$800
	St. George the Martyr, from May 1, 1853, to May 1, 1854, . . .	300
Feb. 14, 1853,	St. John's, Clyde, Western N. Y.,	800

	St. John the Evangelist, N. Y., from Nov. 1, 1853, to Nov. 1, 1855, annual allowance of $200, . .	$400
	St. Timothy, N. Y., do do .	400
	Holy Innocents, N. Y., do $250,	500
Feb. 14,	Church of the Redeemer, at Yorkville, an annuity for 5 years of $250.	
April 9, 1855,	Interest on the mortgage for $5,000, $350, ...	5,000
	Do also on the second, for $4,000, $280, ...	4,000
		$9,000
Feb. 14,	St. James's, Scarsdale, towards a parsonage, ...	1,000
Mar. 14,	Church at Coxsackie, . . .	500
	St. Peter's, Forrestville, Western N.Y.,	250
	St. Mark's, Newark, Western N. Y., .	500
	Nashotah Mission, in five annual instalments, ...	2,500
Mar. 21,	Church of the Messiah, Rhinebeck, .	1,000
May 9,	Mrs. Dr. Ogilby, an annuity of $200 for 5 years, ...	1,000
Oct. 3,	For Diocesan Missionary Fund, 1853,	50
Dec. 19, 1853,	Annual allowance to Mrs. Dr. Parks, $1,000, ...	2,000
Jan. 9, 1854,	St. James's, Goshen, annuity of $140 for 5 years, ...	700
	Zion Church, Sandy Hill, annuity of $140 for 5 years, ...	700

Jan. 9, 1849,	St. Matthew's, N. Y., annually $200, to commence the 1st of May next,	1,000
Jan. 9, 1854,	St. Mark's, Williamsburgh,	6,000
	Annual allowance of $300, from 1847 to 1855,	2,400
		$8,400
Dec. 11,	Annual allowance of $1,200 to the Provisional Bishop, until conditionally the principal sum of $20,000 be paid,	20,000
Feb. 12, 1855,	Dr. Bowden's family, an annuity of $100 for 5 years,	500
April 16,	Mrs. Moses Marcus,	250
July 9,	Church at Sharon Springs,	500
	Rev. A. Guion,	300
	Church of the Messiah, Greenbush, Rensselaer co.,	1,500
	Christ Church, Hudson,	5,000
	St. Luke's, Jamestown, Chautauque county,	1,000
	All Saints', Milton, to the Rev. Mr. Hawksley,	300
	Annual allowance to Mrs. Bishop Wainwright, from 1854 to 1855,	2,000

There is another striking instance of the liberality and zeal of this venerable Corporation, which is deserving of particular notice. On the Sunday after the Consecration of Trinity Chapel, which took place on the 17th of April, the Rector of the parish preached a sermon appropriate to the occasion, and concluded his

discourse in the following earnest and impassioned strain, which seems almost to have been prophetic:

"But, my brethren, carried away by the subject, and scarcely knowing where to stop, I have made a hurried sketch of the past, and have left but a moment for the future. Man's foresight is but folly, and that future is solely in the hands of God, to whom we cheerfully submit it. But how beautiful and glorious does it nevertheless appear! A new and important work is yet before us. In the course of things, and in the providence of God, nearly the whole of the lower part of the city has been brought under our spiritual care, and as it has thus become our especial province, so it is a source of grateful reflection that we have it in our power to discharge the duty which is set before us. The condition and character of our congregations have materially changed, but the population has not decreased. The gospel may still be preached to the poor, for whom our Lord had a peculiar concern; to the strangers who visit our city, and who there find it as freely given as it was freely received; to the young men engaged in mercantile or mechanical pursuits, who, in many instances, far from their paternal roof, and the wholesome influences of home, are exposed to temptations in every form, and who therefore stand in especial need of the pastoral care and tender guidance of the ministers of God; to the casual attendants led thither by curiosity or convenience, who, unaccustomed to our service, and ignorant of our system, are there very often disabused of their prejudices, and receive their first impressions in favor of the Church. With these several classes our churches may once more be filled to overflowing.

"With wisdom and liberality also on the part of the Vestry in establishing Parochial Schools, and in carrying out all needful arrangements for the prosecution of this work; with self-

denial and patience, with untiring labor, with unconquerable perseverance, and unquenchable zeal on the part of the clergy; with the hearty co-operation of zealous young men and devout and benevolent women in this Missionary cause: and above all, with the help of God, without whom all labor is fruitless, and all efforts are vain; it is impossible to conceive, though delightful to anticipate, the amount of good which may yet be done."

These pious wishes and heartfelt aspirations seem about to receive their fulfilment much sooner than was hoped for at the time of their utterance. What was then only a fond expectation, arising out of the well-known liberality and zeal of Trinity Church, has now, in a measure, become a blessed reality. She has readily adapted herself to her new relations, and enlarged her plans to fulfil the measure of her duties. The number of the clergy in the parish has been nearly doubled, with a view to the increase of its usefulness, and a more thorough attention to the spiritual and temporal wants of the poor and the needy, the helpless and friendless, the desolate and oppressed. New Sunday Schools have been formed, with an auspicious beginning, in addition to those which are already in active and successful operation. A committee had already been appointed in reference to the establishment of Parochial Schools, for the purpose of uniting religious instruction with intellectual culture, of sanctifying all the faculties and powers of the mind, and of making knowledge a blessing and not a means of perversion and abuse, as it too often is in its unhal-

lowed state, if not an absolute curse. There is likewise a disposition on the part of the Vestry to furnish every reasonable facility, and provide all additional aid which may be found needful, for the furtherance of the great work which is set before them, without an undue and "disproportioned" retrenchment in their bounty to others.

And let it here be remarked, so far as our own Communion is concerned, that with one solitary exception, this field has been left to Trinity Church alone, and abandoned by all others; that even this exception, of St. George's Chapel in Beekman street, would not have existed but for the kind interposition of Trinity Church, which saved it from destruction, when it was about to be sold and razed to the ground; that after it was rescued and placed under a separate organization, it could not have been kept up except by her fostering care and continual aid; that this aid has since been increased to the full amount of the salary of the Rector, and that being thus relieved from its heaviest burden, it has now been made a Free Church, under the care of the same self-denying man, who is pre-eminently fitted for its peculiar and important services.

Is it meet and becoming then in those who have deserted the ground which Trinity Church so nobly maintains, to taunt her with sluggish inactivity and unfaithfulness in her duties?

These liberal arrangements, and this ample provision for the relief of the spiritual destitution of a large body

of people who would otherwise have had no helper nor guide, is noticed in connection with the enumeration of her bounties, since the objects for which they were made, were not merely of a parochial, but in a great measure of a public and missionary character.

According to the statement in the History of Trinity Church, the aggregate amount of its gifts, loans, and grants, rating the lands at their prices in 1847, considerably exceeded Two Millions of Dollars. From the very material increase within the last few years, in the value of the lands with which many of the churches about half a century since were so amply endowed, and from the additional bounties which in such a variety of ways have recently been bestowed, this amount may very safely be stated at the present time at Two Millions and a half; an amount more than equal, as is verily believed, to two-thirds of the value of the Estate (excepting the church edifices and burial-grounds) which now actually remains.

Now, could it have been supposed, with these facts before the eyes of the world, and these benefits rising up to the memory of all who had gratitude enough to feel them, that the charge of niggardly parsimony and miserly hoarding could ever be brought against Trinity Church? Is it nothing to have had public spirit enough to co-operate by its bounty, in the improvement of the city wherein it was placed? Is it nothing to have contributed to the propagation of the gospel at an early day in the destitute portions of the Diocese, and in later times to the City Mission, the Sea-

men's Mission, and all the kindred objects both at home and abroad? Is it nothing to have relieved clergymen whose incomes were inadequate to their support, and of others bowed down with infirmity and age, who would otherwise have had no relief in the evil days which were coming upon them, and no solace in their sufferings and wants? Is it nothing that the faithful men who had spent the best portion of their lives in the immediate service of the Parish itself, should have been enabled by its bounty to pass the rest of their days in freedom from anxiety, and to end them in comfort and peace? Is it nothing that the families of those who had died in its service were neither forgotten nor neglected, but soothed by its sympathy in their sorrows, and a measure of bounty unknown in all others? Is it nothing that gifts and grants have been made for the promotion of religion and learning to a variety of Institutions, from the very elements of knowledge in primary schools to the highest perfection of it in our colleges? Is it nothing to have contributed largely towards the dignity and comfort of those whom God has made overseers of the Church, in this extensive and laborious Diocese? Is it nothing that the descendants of the poor, the helpless, and friendless Africans have been remembered, and in some reasonable measure relieved in their common education and their spiritual wants? Is it nothing that churches in our city have been reared prematurely, which in the absence of the bounty of Trinity Parish might have waited for a long course of years without being brought into existence;

that others throughout the State, with so feeble a beginning as scarcely to have lived either in conception or hope, have been brought into being, and are now healthy and strong; and that scores of them have been relieved and saved, which would otherwise have perished as an untimely abortion?

There is not enough, however, in all this, with the vastness of its amount, and the variety of its details, to satisfy the minds of the perverse and captious, nor of those perhaps in some instances, at least, who entertain no feelings towards Trinity Church but those of respect and good-will. She has not indeed done all that unreasonable desire could covet, nor inventive ingenuity suggest, nor unlimited power and boundless benevolence could accomplish. Her bounty has not taken the form in which each one has seen fit to mould it, nor flowed in the channel into which each one would turn it. But nevertheless it will be acknowledged by all liberal and candid men, that it has been a great and a wide-spread blessing.

But after all, who are the proper judges of the disposition of her bounty, but the dispensers themselves? Here are two and twenty men freely elected every year by the Parish, and chosen with especial regard to their fitness for the office, and who are responsible for the faithful discharge of it to their constituents, their conscience, and their God. They give, to a very great degree, their time, their attention, and thoughts to the vast and complicated concerns of this great Corpora-

tion without compensation,* and very often to the detriment of their private affairs. They regard themselves as the stewards of a sacred trust, for the execution of which as for every other gift of God, they are accountable to the Giver. And they endeavor to administer it with liberality and kindness, yet with wisdom and prudence, not squandering in a day what should be a perennial blessing throughout all generations.

They may sometimes be mistaken in their views, and err in their course, for they are fallible men, but nevertheless there are those among them who in strength of intellect, in soundness of judgment, in practical wisdom and practical benevolence, and in all the qualities of mind and heart which constitute excellence, as men and as Christians, may be advantageously compared with the proudest of their objectors.

* The Comptroller and Clerk alone excepted.

WARDENS AND VESTRYMEN

OF TRINITY CHURCH,

From the foundation of the Parish to the present time.

Thomas Wenham,* Warden from 1697 to 1704. Vestryman from 1704 to 1706. Warden again from 1706 to 1709. Vestryman again in 1709.

Coln. Robert Lurting,† Warden in 1697. Vestryman from 1698 to 1706. Warden again in 1706. Vestryman again from 1707 to 1714.

Coln. Caleb Heathcote,‡ Vestryman from 1697 to 1699; and also from 1711 to 1714.

William Merret,§ Vestryman from 1697 to 1700.

John Tudor,‖ " in 1697, and also from 1700 to 1703, and re-elected again in 1705.

James Emott, Vestryman from 1697 to 1711, and re-elected in 1719.

William Morris,¶ Vestryman from 1697 to 1704.

Thomas Clarke,**, Vestryman in 1697. Warden from 1698 to 1700.

Ebenezer Wilson, Vestryman from 1697 to 1705.

Samuel Burt, " in 1697.

James Evets, " from 1697 to 1700.

* Member of his Majesty's Council.

† Many years Alderman of Dock Ward, first Ward of the City, and Mayor of New-York from 1722 to 1735.

‡ Member of Council and Mayor of the City from 1711 to 1714.

§ Member of Council, and Member of Assembly for several years for the City of New-York, and Mayor of the same from 1704 to 1709.

‖ Recorder of New-York from 1704 to 1709.

¶ Chief Justice of the Province.

** Member of Council.

Nathaniel Marston, Vestryman in 1697, in 1705, from 1708 to 1718, in 1724, and from 1727 to 1731.

Michael Howden, Vestryman from 1697 to 1702, and from 1704 to 1710.

John Crooke, Vestryman from 1697 to 1703, and again from 1705 to 1708. Warden from 1708 to 1713. Vestryman again in 1713.

William Sharpas,* Vestryman from 1697 to 1699, from 1704 to 1706, and again in 1710.

Lawrence Read, Vestryman in 1697, and in 1709.

David Jamison,† " from 1697 to 1704. Warden from 1704 to 1706. Vestryman again from 1706 to 1709, and Warden again from 1709 to 1714.

William Huddleston, Vestryman from 1697 to 1714.

Gabriel Ludlow, " in 1697, from 1700 to 1702, and in 1704.

Thomas Burroughs, Vestryman from 1697 to 1702.

William Janeway, " in 1697, and from 1702 to 1704.

John Merret, Vestryman in 1697.

Jeremiah Tothill, Vestryman from 1698 to 1705.

Matthew Clarkson,‡ " from 1698 to 1700, and in 1702.

William Nicoll,§ Vestryman from 1698 to 1702.

William Anderson, " from 1698 to 1717.

Richard Willet, " from 1698 to 1700. Warden from 1700 to 1704. Vestryman again from 1704 to 1707, Warden again in 1707, and Vestryman again from 1708 to 1721.

* Member of Council.

† Recorder of the City from 1712 to 1725, and Attorney-General of the Province.

‡ Secretary of the Province, 1698.

§ Associate Judge, Member of Assembly from Suffolk County, and repeatedly Speaker of the House of Assembly.

Robert Walters, Vestryman in 1698.

Giles Gaudineau, " in 1698.

Jonathan Hutchins, " from 1699 to 1702.

Jonathan Guest, " from 1699 to 1701.

Thomas Ives, " from 1699 to 1703, and from 1706 to 1708.

Lancaster Syms, Vestryman from 1699 to 1704, and in 1705.

Roger Baker, Vestryman from 1700 to 1702.

Robert Skelton, " from 1700 to 1703.

Peter Mathews, " in 1701, and in 1705.

Jonathan Corbet, " from 1702 to 1705.

William Peartree,* Vestryman from 1702 to 1704. Warden from 1704 to 1706. Vestryman again from 1706 to 1710, and again in 1711.

William Smith,† Vestryman from 1702 to 1704.

Robert Lettice Hooper,‡ Vestryman in 1702, and from 1719 to 1725.

Jon. Theobalds, Vestryman from 1702 to 1704.

Jon. Burrow, " from 1703 to 1705.

Thomas Davenport, " from 1703 to 1710, and from 1711 to 1717.

Richard Harris,§ Vestryman in 1703, from 1706 to 1709, and from 1710 to 1715.

Matth. Ling, Vestryman in 1703.

Barth. Le Roux,‖ " in 1703, and from 1709 to 1714

William Bradford, Vestryman from 1703 to 1710.

* Mayor of the City from 1703 to 1708.

† Alderman of the West Ward for several years.

‡ Colonel in the British Army.

§ Assistant Alderman of the East Ward.

‖ Assistant Alderman of the West Ward.

Sampson Shelton Broughton,* Vestryman in 1704, from 1706 to 1708, and from 1709 to 1712.

Daniel Honan, Vestryman from 1704 to 1706.

John Hutchins,† " in 1704.

Patrick Crawford, " in 1704.

Thomas Clarke,‡ " from 1705 to 1715. Warden in 1715. Vestryman again from 1716 to 1718. Warden again in 1718. Vestryman again from 1720 to 1726, and again from 1727 to 1735.

Col. Bayard,§ Vestryman from 1705 to 1712.

Elias Neau, " from 1705 to 1714.

May Bickley,‖ Vestryman from 1705 to 1714. Warden from 1714 to 1719. Vestryman again from 1719 to 1721, and Warden again from 1721 to 1724.

Mr. Bret, Vestryman from 1706 to 1709.

Mr. Regnier, " from 1706 to 1709, from 1710 to 1712, and in 1713

Mr. Leathes, Vestryman from 1706 to 1708.

Thomas Byerly, " in 1708, and in 1710.

Cornelius Lodge, " from 1708 to 1720.

Abraham Moore, " from 1709 to 1715

William White, " from 1710 to 1712.

Peter Barberie, Jr., Vestryman in 1710, and again in 1712. Warden from 1713 to 1715. Vestryman again from 1715 to 1722. Warden again from 1722 to 1726. Vestryman again from 1726 to 1728.

* Recorder of the City from 1702 to 1704, and Attorney-General of the Province.

† Alderman of the West Ward.

‡ Secretary of the Province, 1705.

§ Alderman of Dock Ward.

‖ Attorney-General of the Province, 1705, and Recorder of the City from 1708 to 1712.

Andrew Loran, Vestryman in 1710, and again from 1715 to 1717.

Jos. Wright, Vestryman from 1710 to 1712, and again from 1713 to 1727.

John Reade, Vestryman in 1711, and again from 1713 to 1719. Warden from 1719 to 1721. Vestryman again from 1721 to 1733, and from 1738 to 1740.

Mr. Jamain, Vestryman in 1711.

John Stephens, from 1710 to 1715.

Henry Vernon, from 1712 to 1731.

John Walter, in 1712, 1714 to 1716, and 1717 to 1722.

Simeon Soumaine, from 1712 to 1750.

Robert Elliston,* from 1713 to 1726, in 1736, and from 1740 to 1756.

Thomas Noxon, from 1713 to 1732.

William Howard, from 1713 to 1715, and from 1718 to 1720.

Gilbert Ash, from 1714 to 1718.

Mr. Birchfield in 1714.

William Davis, from 1714 to 1716.

George Cocke, from 1715 to 1718.

Joseph Reade, Vestryman from 1715 to 1717, and again from 1718 to 1721. Warden in 1721. Vestryman again from 1722 to 1756. Warden again from 1756 to 1770. Vestryman again in 1770.

John Moore,† Vestryman from 1715 to 1719. Warden from 1719 to 1721. Vestryman again from 1721 to 1728.

George Clarke, Warden from 1716 to 1718.

John Hamilton, Vestryman from 1716 to 1719.

Richard Worsom, " from 1716 to 1718.

* Collector of his Majesty's Customs.

† Alderman of the South Ward for eight years.

Alexander Moore, Vestryman from 1716 to 1718, from 1719 to 1725, and from 1726 to 1729.

Benjamin Hildreth, Vestryman from 1717 to 1727.

James Dixon, " in 1718.

Jno. Auboyneau, " in 1718, and from 1725 to 1745.

Jno. Balme, Vestryman from 1718 to 1724, in 1726, and in 1728.

Edward Man, Vestryman from 1718 to 1720.

Henry Wileman, " from 1719 to 1727.

George Talbot, " from 1720 to 1724.

Robert Crooke, " from 1720 to 1727.

Joseph Murray,* " from 1720 to 1726. Warden from 1726 to 1758.

William Dugdale, Vestryman from 1721 to 1725.

Robert Livingston, Jr.,† Vestryman from 1721 to 1761.

Jos. Robinson, Vestryman from 1722 to 1724. Warden from 1724 to 1756. Vestryman again from 1756 to 1759.

John Crooke, Sen., Vestryman in 1724, and from 1727 to 1731.

Edward Antill, Vestryman from 1724 to 1726.

Thomas Hopkins, " in 1725.

Jno. Searle, " from 1725 to 1727, and from 1728 to 1735.

James Searle, Vestryman from 1725 to 1746.

John Waldron, " from 1725 to 1732.

John McEvers, " from 1726 to 1752.

* Mr. Murray was a lawyer of great eminence in the city of New-York, about the middle of the last century. He was one of the Council, and Attorney-General of the Province, and was much celebrated in his day as a constitutional lawyer.

† Speaker of the House of Assembly.

John Chambers, Vestryman from 1726 to 1757, and Warden from 1757 to 1765.

Stephen Delancey,* Vestryman from 1727 to 1742.

Augustus Jay,† Vestryman from 1727 to 1746.

John Moore, Jr., " from 1728 to 1750.

Peter Vallette, " from 1729 to 1731.

John Brown, " from 1729 to 1739.

William Ricketts, " from 1731 to 1736.

William Hamersley, Vestryman from 1731 to 1753.

Charles Crooke, " from 1731 to 1764.

Nathaniel Marston, Jr., Vestryman in 1731, and from 1735 to 1770, and Warden from 1770 to 1779.

Anthony Duane, Vestryman from 1732 to 1748.

Peter Jay, " from 1732 to 1746.

Richard Nicholls, " from 1732 to 1766.

Ralph Barker, " from 1733 to 1736.

Daniel Horsmanden,‡ Vestryman from 1734 to 1765. Warden from 1765 to 1769, and Vestryman again from 1769 to 1772.

Henry Roe, Vestryman from 1735 to 1748.

Robert Watts, Vestryman from 1739 to 1751.

Gabriel Ludlow, " from 1742 to 1769.

Edward Holland, " from 1745 to 1757.

Abraham Lodge, " from 1749 to 1759.

Archibald Fisher, " in 1746.

Ebenezer Grant, " from 1746 to 1760.

Charles Williams, " from 1747 to 1774.

Henry Ludlow, " from 1748 to 1760.

Thomas Duncan, " from 1748 to 1759.

* Alderman of the West Ward and Member of Assembly for several years.

† Assistant Alderman of the South Ward.

‡ Recorder of the city from 1735 to 1747. One of the Judges of the Supreme Court and of the Colony, and afterwards Chief-Justice.

Robert Cromeline, Vestryman from 1750 to 1784.
Thomas Moore, " from 1750 to 1762
Benjamin Nicoll, " from 1751 to 1761.
George Harison, " from 1752 to 1765.
Edward Mann, " from 1753 to 1770.
John Aspinwall, " from 1756 to 1760.
David Clarkson, " from 1757 to 1769. Warden in 1770, and Vestryman again from 1771 to 1777.
Andrew Barclay, Vestryman from 1758 to 1777.
John Troup, " from 1758 to 1762.
Elias Desbrosses,* " from 1759 to 1770. Warden from 1770 to 1778.
Robert Morrell, Vestryman from 1759 to 1761.
Nicholas William Stuyvesant, Vestryman from 1760 to 1773.
Theophylact Bache,† Vestryman from 1760 to 1784, in 1788 and from 1792 to 1800.
Adrian Renaudet, Vestryman from 1760 to 1779.
John Ludlow, " in 1761.
Alexander Colden, " from 1761 to 1775.
Joseph Sackett, " from 1761 to 1764.
Thomas Hill, " from 1762 to 1779.
Edward Laight, " from 1762 to 1784.
Anthony Van Dam, " from 1762 to 1783.
Robert R. Livingston,‡ Vestryman from 1764 to 1775, and Warden from 1784 to 1785.

* Alderman of the East Ward for several years, and gratefully remembered for his legacies towards the establishment of a French Protestant Episcopal Church in this City, and towards the support of the Charity School.

† For many years a Governor and President of the New-York Hospital.

‡ Recorder of the City; Judge of the Supreme Court of the Colony; one of the signers of the Declaration of Independence; Chancellor of the State, and Minister to Paris under the Consulate and Empire.

John Charlton, Vestryman from 1764 to 1784. Warden from 1794 to 1806.

Humphrey Jones, Vestryman from 1764 to 1772.

Matthew Clarkson, " from 1765 to 1769.

Benjamin Kissam, " from 1766 to 1783.

John Tabor Kempe,* " from 1769 to 1778. Warden from 1779 to 1783.

Miles Sherbrooke, Vestryman from 1769 to 1784.

Mr. Smith, " in 1770.

John Griffith, " from 1771 to 1782.

Gabriel H. Ludlow, " from 1771 to 1784.

James Duane,† " from 1772 to 1777. Warden from 1784 to 1794.

Peter Goelet, Vestryman from 1772 to 1782.

Grove Bend, " from 1773 to 1778.

Charles Shaw, " from 1774 to 1784.

Christopher Smith, Vestryman from 1774 to 1781.

James Desbrosses, " from 1775 to 1779. Warden from 1779 to 1784.

Peter Van Schaick,‡ LL.D., Vestryman from 1776 to 1779 and in 1780.

William Laight, Vestryman from 1777 to 1784, and from 1788 to 1802.

David Seabury, Vestryman from 1777 to 1784.

F. Phillippse, " from 1779 to 1782.

Thomas Moore, " from 1779 to 1784.

* Attorney-General of the Province.

† Member of the old Congress; first Mayor of the City under the government of the State of New-York; first Judge of the United States District Court upon the organizationof the Judiciary under the present Constitution of the United States; receiving the appointment from Washington.

‡ An eminent Lawyer and accomplished scholar.

Robert Watts, Vestryman from 1778 to 1783. Warden in 1783. Warden from 1790 to 1804.

William Ustick, Vestryman from 1778 to 1784.

Augustus Van Cortlandt, Vestryman from 1779 to 1784.

John Smith, " from 1781 to 1784.

Thomas Ellison, " from 1781 to 1784.

Abraham Walton, " from 1782 to 1784.

Cadwallader Colden, " from 1782 to 1784.

Richard Harison,* LL.D., Vestryman in 1783, from 1788 to 1811, and Warden from 1811 to 1827.

Stephen Skinner, Vestryman in 1783.

Richard Morris,† " from 1784 to 1785.

Francis Lewis,‡ " from 1784 to 1786.

Col. Lewis Morris, " from 1784 to 1785.

Isaac Sears,§ " from 1784 to 1786.

Wm. Duer,‖ " from 1784 to 1787.

Wm. Bedlow, " from 1784 to 1787.

Daniel Dunscomb, Vestryman from 1784 to 1789.

Anthony Lispenard, " from 1784 to 1787.

Thomas Tillotston,¶ " in 1784.

* Recorder of the City from 1797 to 1801; a distinguished Lawyer; a fin classical scholar, and District Attorney of the United States, appointed by Washington.

† Eminent in the civil affairs of the State, and the organization of the State Government; preceded John Jay as Chief-Justice of the Supreme Court of New-York, 1779, which office he held until his retirement from public life, in 1791.

‡ One of the Signers of the Declaration of Independence and a Member of the old Congress. He lived to the age of 93.

§ Sheriff of London—famous for his eloquence and popular talent—active in promoting the Declaration of Independence, his name frequently occurring in the political history of the times, and a wealthy merchant.

‖ Member of the Continental Congress from 1777 to 1778.

¶ Member of the Legislature and Senate of this State, and Secretary of the same.

Col. John Stevens,* Vestryman from 1784 to 1787.
Marinus Willet,† " from 1784 to 1785.
Robert Troup,‡ " in 1784, and from 1812 to 1817.
Joshua Sands,§ " from 1784 to 1787.
Anthony Griffith, " from 1784 to 1787.
Christopher Miller, " from 1784 to 1785.
Thomas Tucker, " in 1784.
Hercules Mulligan, " from 1784 to 1787.
Thomas Grinnell, " in 1784.
William Mercier, " from 1784 to 1788.
John Rutherford,‖ " from 1784 to 1787.
John Lawrence,¶ " in 1784.
James Farquhar, " from 1784 to 1801
John Alsop, " from 1784 to 1788.
John Hunt, " in 1784.
John Jay,** Warden in 1785, and again from 1788 to 1791.

* First practical projector of Steamboats.

† Colonel in the Revolutionary war—filled many honourable civil stations, and finally that of Mayor of the city in 1807 and 1808.

‡ Colonel in the Revolutionary army—repeatedly in the Legislature—Judge of the District Court, and an eminent lawyer.

§ Member of the Legislature and Representative in Congress.

‖ Colonel in the Revolutionary army, and Senator of the United States from New-Jersey.

¶ Judge Advocate in the army of the Revolution—member of the Continental Congress, from 1785 to 1787, and represented the city of New-York in Congress, from 1789 to 1793.

** Delegate to the old Congress, and President of the same—Secretary for Foreign Affairs under the old Confederation—Minister Plenipotentiary to Spain during the Revolution—first Chief Justice of the State—Commissioner with Adams and Franklin to negotiate a peace with England—Special Envoy to Great Britain for establishing a Commercial treaty in 1793—Chief Justice of the United States from 1789 to 1794, and Governor of the State of New-York from 1795 to 1801.

Thomas Randall,* Vestryman from 1785 to 1791.

Anthony L. Bleecker, Vestryman from 1785 to 1807. Warden from 1807 to 1811.

Paschal N. Smith, Vestryman in 1785.

Robert C. Livingston,	"	from 1785 to 1795.
James Giles,†	"	from 1786 to 1789.
Morgan Lewis,‡	"	in 1786.
Andrew Hamersley,	"	from 1787 to 1807.
Hubert Van Wagenen,	"	from 1787 to 1806.
Nicholas Carmer,	"	from 1787 to 1808.
John Lewis,	"	from 1787 to 1795.
Alexander Ogsbury,	"	from 1787 to 1800.
Moses Rogers,	"	from 1787 to 1811.
George Dominick,	"	from 1787 to 1792.
Nicholas Kortright,	"	from 1787 to 1792.
Wm. Bush,	"	from 1787 to 1789.
Matthew M. Clarkson,§	"	from 1788 to 1792.
Samuel Bard,‖	"	in 1788.
Wm. Samuel Johnson,¶	"	from 1788 to 1801.

* Founder of the Sailors' Snug Harbour.

† Major in the Revolutionary army—Commissary General of the State, afterwards Major-Genaral.

‡ Major in the Revolutionary army, afterwards Judge of the Supreme Court and Chief Justice of the State—Governor of the State of New-York, and for many years, and until his death, President of the Cincinnati Society.

§ Colonel in the Revolutionary army, and President of the New-York Hospital, and of various other benevolent institutions.

‖ An eminent Physician—a Medical and Scientific author—a Professor for many years, and finally President in the College of Physicians and Surgeons in New-York.

¶ Member of Council, and Judge of the Supreme Court in Connecticut—Delegate to the Congress of the old Confederation—Senator from Connecticut to the Congress of the United States—Doctor of Laws from the University of Oxford, and President of Columbia College. He was also a member of the Convention for

John Jones, Vestryman from 1788 to 1800.
Charles Startin, " from 1788 to 1800.
George Warner,* " from 1789 to 1793.
Alexander Hamersley, " from 1789 to 1791.
Thomas Barrow, " from 1790 to 1820.
David M. Clarkson, " from 1791 to 1812. Warden from 1812 to 1815.
Augustus Van Horne, " from 1792 to 1797.
Hugh Gaine,† " from 1792 to 1808.
Peter Stuyvesant, " from 1793 to 1799.
Jacob Le Roy, " from 1795 to 1815.
Francis Dominick, " from 1795 to 1812.
John Clark, " from 1797 to 1812.
Frederick De Peyster, " from 1800 to 1812.
Andrew Smith, " from 1800 to 1814.
George Stanton, " in 1800.
Charles McEvers, Jr., " from 1800 to 1828. Warden from 1828 to 1839.
Joshua Jones, " from 1801 to 1821.
John Onderdonk,‡ " from 1801 to 1832.
William Bayard, " from 1801 to 1821.
John McVickar, " from 1801 to 1812.
James Clark, " from 1802 to 1806.
Rufus King,§ Warden from 1805 to 1812.

forming the present Constitution of the United States, and took an active part in the earlier councils of our Church, and in the organization of the General Convention.

* Member of the Legislature from this city.

† Printer and Bookseller of this city, respected in his own day, and remembered with honour in this.

‡ President of the Medical Society.

§ Member of the old Congress and of the Legislature of New-York—three times elected Senator of the United States—Minister to England under General Washington, and again under John Quincy Adams

Thomas Farmer, Vestryman in 1806.

Wynant Van Zandt, jr.* " from 1806 to 1811.

Thomas L. Ogden,† " from 1807 to 1839. Warden from 1839 to 1844.

Nehemiah Rogers, " from 1807 to 1816. Warden from 1816 to 1842.

John Lagear, " from 1808 to 1811.

Garrit H. Van Wagenen, Vestryman from 1808 to 1812.

Andrew Raymond, " from 1808 to 1818.

Peter A. Jay, LL.D.,‡ " from 1811 to 1816, and again from 1842 to 1844.

William Newton, Vestryman in 1811.

Anthony L. Underhill, " from 1811 to 1825, and from 1826 to 1847.

Edward W. Laight, " from 1811 to 1812, and again from 1818 to 1845. Warden from 1845 to 1851. Vestryman to 1852.

William Hill, Vestryman from 1812 to 1818.

Francis B. Winthrop, " from 1812 to 1818.

Jacob Sherred,§ " from 1812 to 1821.

Peter Mackie, " from 1812 to 1823.

Edward Dunscomb,‖ " from 1812 to 1814.

Charles Ludlow, " from 1812 to 1815.

* Alderman for many years of the First Ward.

† An eminent Chamber Counsellor, a prominent member of many of our literary and ecclesiastical institutions, and an able and judicious delegate for a long course of years, both in the Local and General Councils of the Church.

‡ Recorder of the City for several years, a distinguished Counsellor, President of the New-York Hospital, and filling, with credit, many other honourable and public stations.

§ A noble benefactor of the General Theological Seminary, to which he bequeathed about $60,000, the half of his fortune.

‖ A Revolutionary officer, Sheriff of this City, and repeatedly a member of the Legislature.

Thomas Skinner, Vestryman from 1812 to 1816.
James Bleecker, " from 1814 to 1842.
William Moore,* " from 1814 to 1824.
Teunis Quick, " from 1815 to 1848.
Henry McFarlan, " from 1815 to 1831.
Jonathan Ogden, " from 1816 to 1833.
Jonathan H. Lawrence,† " from 1817 to 1845.
Thomas Swords, " from 1817 to 1843.
Cornelius R. Duffie,‡ " from 1817 to 1823.
Edward N. Cox, " from 1818 to 1822.
Peter A. Mesier, " from 1818 to 1847.
Benjamin W. Rogers, " from 1821 to 1826.
Gabriel Furman, § " from 1821 to 1836.
William Johnson, LL.D.,‖ " from 1821 to 1847.
Ezra Weeks, " from 1822 to 1834.
John Watts,¶ " from 1822 to 1830.
Charles N. S. Rowland, " from 1823 to 1825.
Robert Thomas, " from 1823 to 1832.
Beverley Robinson, " from 1824 to 1827.
John T. Irving,** " from 1825 to 1838.
Charles Graham, " from 1825 to 1826, and from 1832 to 1838.

* A distinguished Physician, and Professor in the Medical Faculty of Columbia College.

† A Revolutionary officer; in after life a man of business and an accomplished merchant, and for many years President of the Pacific Insurance Company.

‡ Afterwards founder and Rector of St. Thomas's Church.

§ Alderman of the City, member of the Legislature, and President for many years of the Mutual Insurance Company.

‖ For many years Reporter of the Supreme Court of New-York.

¶ President of the College of Physicians and Surgeons.

** Member of the Legislature of New-York, for many years First Judge of the Court of Common Pleas of the City of New-York, and a conspicuous member of various literary and benevolent institutions.

Jacob Lorillard,* Vestryman from 1826 to 1839.
George Jones, " from 1827 to 1837.
Philip Hone,† " from 1828 to 1851
William E. Dunscomb, " from 1830 to 1851. Warden to 1855.
Benjamin M. Brown, " from 1831 to 1839.
William H. Harison, " from 1833 to 1852. Warden to 1855.
Adam Tredwell, " from 1833 to 1843. Warden from 1843 to 1852.
Robert Hyslop, " from 1834 to 1855.
Henry Cotheal, " from 1837 to 1849
John D. Wolfe, " from 1837 to 1845.
Thomas W. Ludlow, " in 1838.
Thomas L. Clark, " from 1838 to 1853.
William Moore, " from 1839 to 1855.
William H. Hobart, " from 1839 to 1855.
Henry Youngs, " from 1839 to 1855.
Alexander L. McDonald, " from 1839 to 1855.
Samuel G. Raymond,‡ " from 1843 to 1850.
John Q. Jones, " in 1843.
Gulian C. Verplanck, " from 1844 to 1855.
Philip Henry, " from 1844 to 1855.
John I. Morgan, § " from 1845 to 1849.
David B. Ogden,‖ " from 1845 to 1849.
Anthony J. Bleecker, " from 1846 to 1855.

* President of the German Society, the Mechanics' Society, and the Mechanics' Bank.

† Mayor of New-York.

‡ Member of the Legislature.

§ Member of Congress, and Collector of the port.

‖ Member of the Legislature, Surrogate of the City of New-York; a distinguished Counsellor, and an able and powerful advocate in the Courts of this State, and in the Supreme Court of the United States.

John R. Livingston, Vestryman from 1847 to 1855.
George Templeton Strong, Vestryman, from 1847 to 1855
Samuel T. Skidmore, Vestryman from 1848 to 1855.

William H. Falls,	"	from 1849 to 1855.
Samuel Jones,*	"	from 1849 to 1853.
John A. Dix,	"	from 1849 to 1855.
Richard H. Ogden,	"	from 1850 to 1855.
Cyrus Curtiss,	"	from 1850 to 1855.
George P. Cammann,	"	from 1851 to 1855.
Abel T. Anderson,	"	from 1852 to 1855.
Frederick Pentz,	"	from 1852 to 1855.
Governeur M. Ogden,	"	from 1853 to 1855.
James J. Jones,	"	from 1853 to 1855.

Who that is at all familiar with our local history, and feels any interest in it, can look back upon the names of these respected and venerated men, without a feeling of reverence for that ancient Corporation, whose concerns they have managed with so much prudence, whose wealth they have dispensed with so much liberality, and whose rights and privileges they have at all times so conscientiously and manfully defended? Who that now belongs to this Parish, or who that was ever connected with it, can help feeling some honest pride in being a member of a body which associates him with those who in past generations adorned the age in which they lived, and with those who in the present day are held in honour and respect?

* Chancellor of the State, and Chief Justice of the Supreme Court.

But though there were at all times among the Wardens and Vestrymen of Trinity Church, many who were eminent in the learned professions, distinguished as scholars, and exalted in rank and station; yet the selection was by no means confined to them, but extended to persons in all the various classes and callings in life. There was, however, on every occasion, an uniform reference to the fitness, intelligence, and probity of those who were chosen for the discharge of these high and responsible duties; and I doubt whether there ever was a Corporation in this or any other country, who, during the long course of one hunded and fifty years, administered their affairs with stricter integrity, or who, in their personal characters, were more free from reproach.

REPORTS

OF THE

SELECT COMMITTEE OF THE SENATE

ON THE

AFFAIRS OF TRINITY CHURCH,

WITH THE

TESTIMONY RELATIVE THERETO.

ALBANY:
VAN BENTHUYSEN, PRINTER, 407 BROADWAY.
1857.

FIRST REPORT.

Mr. Spencer, from the select committee to which was referred the report of the Vestry of Trinity church, in the city of New-York, in reply to the resolutions of the Senate, passed April 13, 1855, and who were subsequently authorized "to examine into the matters connected therewith, during the recess," submitted the following

REPORT:

That they met in the city of New-York, on Tuesday, the 2d of December, and sat during that day and the 3d, 4th and 19th and 20th days of the same month.

Three days before, notice thereof (marked C in the appendix to the evidence) was given in writing to the Vestry of Trinity church, informing them of the time and place of meeting, and offering them the opportunity of presenting then, or at any time during the session of the committee, any statement or explanation in regard to any of the matters referred to it, which they might desire to present. On the first day a communication (marked D) was received from the comptroller of Trinity church, acknowledging the receipt of the notice, and adding that if your committee would communicate to him, for the vestry, what

statement or explanation was wanted in regard to any of the matters contained in the report, he would feel it his duty to submit the same, and doubted not that the vestry would cheerfully and promptly furnish the requisite statement or explanation. Your committee thereupon immediately addressed another note to the vestry (marked E,) desiring the names of the corporators entitled to vote and voting, as required under the first resolution of inquiry; also whether there were any additional mortgages or securities beside those set forth in their last report to the Senate, and if so, the full particulars concerning them; and also, the real value of each lot or parcel of land owned by the corporation, irrespective of the leases thereon.

A reply to this note not having been recived on the 4th of December, a *subpœna* was served upon the comptroller, who appeared before your committee and testified; and a copy of his testimony, as given in the subjoined evidence, was made out and sent to him at his request.

On the 19th of December a reply (marked J) was received from the corporation, which not only touches upon the matters requested, but also furnishes additional information bearing upon new and unexpected points, opened during the examination of the comptroller. This communication is stated by the corporation to be supplemental to their *report*, presented to the Senate on the 20th of February, 1856, and it will therefore be referred to throughout this *report*, as the *supplement*.

Your committee have had before them between thirty and forty witnesses, all of the highest respectability and most reliable character. Except those testifying merely to the value and prices of property, all these witnesses are members of the Protestant Episcopal Church, and known for their high standing in that communion. Eleven are clergymen, and three of them assistant ministers of Trinity Church. Four of the vestry (including one formerly a vestryman) appeared before us, only one of whom declined to be sworn. This declining was the more regretted, because that vestryman, being a member of the standing committee—which appears, from the evidence, to possess nearly all the reliable knowledge of the affairs of the corporation—it was

hoped that his testimony would furnish explanations of no small importance to the vestry.

In condensing the large mass of information laid before them, your committee will first consider the five original resolutions of inquiry, separately ; passing on thence to the additional matter introduced into their *report* by the vestry, beyond the limited information requested, and including also, by order of the Senate, the still more voluminous " matters connected therewith," the consideration of which has thus been necessarily involved by the " more complete," " expedient " and " satisfactory " expansion given, of their own accord, by the vestry, to their *report*.

First Resolution.

" *Resolved*, That the Vestry of Trinity Church in the city of New-York be and they are hereby required to report to the Senate of this State, on or before the seventh day of January next, the number and the names of the persons entitled, under an act to alter the name of the corporation of Trinity Church in New-York, and for other purposes, passed January 25th, 1814, to vote at the annual elections for church-wardens and vestrymen of the present corporation of Trinity Church, specifying those who vote as communicants, and those who vote as pew-holders in the said church, and the names of the persons so entitled, who did actually vote at each of the three last annual elections held for the choice of church-wardens and vestrymen of said corporation."

In their *report* to the Senate, the corporation gave the number of the persons thus entitled to vote, as 305, of whom 92 are communicants, and 213 are pew-holders. It also gave the number of corporators voting at the annual election, not only for the three years requested, but for ten years past. But the *report* gave no names.

The *supplement* states that the corporation then " designedly refrained from giving the names," supposing " that the names of such persons could not be material, because the vestry were not aware that the liberty to inspect a list of such names had ever been refused to any corporator," and "because the vestry believed that the Honorable Senate, upon receiving the *report*, would not,

at least without evidence of such refusal, exert its authority for the enforcement of a mere private right."

The evidence shows that two of the assistant ministers of the parish " have made several efforts to obtain such a list unsuccessfully ;" that the list is kept " in the joint charge of the comptroller and rector ;" that one who has been a vestryman for six years has seen only "one list of the corporators, which was kept by Dr. Berrian at an election;" that another, who had been a vestryman for ten years, had "never seen a list of the corporators;" and, he added, that "the vestrymen were not allowed to see it, that he knew of;" and also that the comptroller himself, as appears in his evidence, though "presuming" that the names were in his office, promised to furnish a copy of them to your committee, only in case he was authorized to do so by "the committee of the vestry."

The vestry, however, not considering their objections to giving the names as " of sufficient importance to induce them to withhold making answer," they supply the omitted lists of names, which will be found in Schedule A, appended to the *supplement*. "These lists," the vestry add, "are believed to be accurate " They state in the *report* that those who have removed too far from the parish church and chapels to continue to worship therein, are "of course, not enumerated among the corporators, because they are not entitled to vote." It must, therefore, be an oversight, that among the names contained in these lists "believed to be accurate," there are those of persons who have removed from the city, and also of others who have long been dead—some of them for years.

In regard to the fewness of the corporators entitled to vote for the managers of this large property, the vestry, in their *report*, set forth the probability of an increase, from the late increase of parochial work. They added : "A like increase may also be expected from the persons worshiping in the new Trinity Chapel, lately erected, who for the space of one year shall have been members of the congregation of that chapel. This new chapel was principally built for the accommodation of the parishioners and their families who had been a long time in the parish, but had removed too far from the parish church and chapels to continue to worship

therein ; and thus, by inducing their return, to increase the number of our constituency." Although thus representing that this new chapel was principally built with a view to increase the number of corporators, it appears from the printed form of lease given for pews the first year, that the said leases ran "for the term commencing on the first Sunday after Easter, and continuing to and including Easter-day in the next year, and no longer." Thus, though a man might be a pew-holder all the Sundays in the year, he would not be a pew-holder (and consequently not a corporator) on the day, (Easter Tuesday,) when the annual election was held, since his lease expired just two days previous, and would not recommence until four days after. And to make this still more evident, each lease expressly stated in the printed "schedule," which forms part of the document, that "The above agreement, or the occupation of a seat, does not give to any person the rights and privileges of a corporator." Nor was this meant to apply only until such persons had "for the space of one year been members of the congregation of that chapel," as would seem to be stated in the *report ;* for, on the back of that same form of lease there are printed blank receipts for the pew-rent for the three subsequent years also, each embodying the same phraseology ; thus showing that the exclusion from the rights and privileges of a corporator was intended to continue for four years at the least. It appears also, from the evidence of a vestryman, that this was so done in order "to preclude the creation of a corporator ;" and, as another witness testifies, this original arrangement was "an ordinance of the vestry, interfering in some respects with the privilege of voting ;" which was subsequently rescinded. This rescinding is stated to have taken place in the April after the *report* of the vestry was presented to the Senate.

It appears, too, that at one time, notwithstanding objection made on the ground that it was an "obstacle to voting," which was "contrary to the law," the vestry required that all corporators desiring to vote "should give previous written notice of such desire to the rector."

Second Resolution.

Resolved, That the said vestry be and they are hereby directed to report to the Senate of this State, on or before the seventh day

of January next, the amount of money expended by said corporation in building or in aiding and assisting to build free churches in the destitute portions of the parish of Trinity Church, as originally constituted and declared, and the names of such churches, with the amount expended upon each; also the number and names of the churches in the city of New-York, built, in whole or in part, by the said corporation within the last five years, and the amount expended on each; the number and names of the Protestant Episcopal churches, situated in the city of New-York, in feeble and necessitous circumstances, which have been aided and assisted by the said corporation within the last five years, and the amount of such aid and assistance, afforded annually or otherwise, to each; also the number and names of the churches in the city of New-York, endowed by the said corporation within the last five years, and the amount of such endowment in each case.

As to free churches, it does not appear from her *report* that Trinity has ever built any. The *report* mentions grants of money and land, before the year 1814, to St. Michael's and St. James' Churches. Of the grants since that time there appear only $14,000 to aid in building and rebuilding the Church of the Nativity, and $1,600 towards building or enlarging free churches; of all which $1,100 has been paid within the last five years.

In the *report*, by going back beyond the five years to the year 1847, the amount of $63,850.79 is set down as having been paid at different times for the Church of the Holy Evangelist (now occupying the old St. George's, Beekman-street.) Of this sum $25,000 appears to have been, not a payment of any kind, but only a vote of the vestry empowering St. George's, Stuyvesant square, to sell the lots formerly given by Trinity corporation, which vote of the vestry is estimated, by Trinity, to be worth $25,000 to St. George's, Stuyvesant square, and is therefore set down as so much paid for St. George's, Beekman street.

As to "the churches in the city of New-York, built in whole or part" by Trinity corporation, "within the last five years, and the

amount expended in each," it does not appear from her *report* that there is any such church, except the new Trinity chapel, built for Trinity parish itself, at the cost of $227,164.82.

Of Protestant Episcopal churches, not free, situated in the city of New-York, in feeble and necessitous circumstances, which have been aided and assisted by the said corporation within the last five years, the *report* gives a list of *nineteen*. All the sums thus given are stated to be "for the support" of the said churches, no mention being made of building, enlarging or endowing; and the total of all for the five years last past is $58,418, of which nearly one half (26,800) was given to the church of the Annunciation alone.

Of " churches in the city of New-York endowed by the said corporation within the last five years," it does not appear from the *report*, or otherwise, that there is one.

Third Resolution.

" *Resolved*, That the said vestry be and are hereby required to report to the Senate of this State, on or before the seventh day of January next, whether any, and if any, what appropriations have been made by them during the last three years to institutions of charity, benevolence or learning in the city of New-York."

The *report* shows the gift of five plots in Trinity cemetry, one to Christ Church, and one each to the Orphan Asylum, the Society for the Relief of Aged and Indigent Females, the Mutual Benefit Society and the Orphans' Home. The *report* adds that "no other appropriations" besides these have been made during the last three years to "institutions of charity, benevolence and learning, in the city of New-York."

It appears in the evidence that Trinity Church has never, at any time, established or endowed any institution of charity or benevolence, even for her own poor.

Fourth Resolution.

" *Resolved*, That the said vestry be and they are hereby directed to report to the Senate of this State, within the first

week of January next, the estimated value of each lot and parcel of land owned by the said corporation in the city of New-York, irrespective of the leases thereon."

This resolution asks for the estimated value, irrespective of the leases The *report*, however, is based wholly on the value assessed for taxation, which is notoriously less than the market value. From that assessed value, the vestry abstracted the value of the buildings as "estimated" by their own agents sent round for that purpose (these buildings being the property of the tenants). The residue was then still further reduced by making deductions for the length of time the existing leases have to run; and the result is set down as the "*present* net value" to the church. The total "present value" of all the real estate is thus reckoned in the *report* to be $1,446,371.71.

In their note to the vestry, your committee requested a statement of the real value of each lot or parcel of land, in accordance with the evident intention of the resolution. To this the vestry, through their comptroller, reply in the *supplement* that "they are unable to give any further answer on this point than that contained in their *report*." "Statements upon such questions" they consider to be "mere matters of opinion." They say they "are unable to agree upon any estimate of their own; nor do they think it right that they should discredit an official valuation of their real estate, upon the basis of which the tenants are bound to pay the taxes and assessments." Thus failing to procure from the vestry anything resting on a more reliable basis than the assessed values, your committee received such evidence as they could obtain concerning the prices paid to Trinity Church on new valuations for fresh leases, or on actual sales, of lots which are valued in the *report*,—such valuations and sales being at or near the time when that *report* was laid before the Senate.

The "present value" of No. 251 Broadway is estimated in the *report* to be $12,081.56. Mr. Jasper Grosvenor, the holder of the lease, testifies that he offered them $40,000 for the reversion of that lot (the lease having sixteen years to run), which they refused. He paid them $10,000 for a stipulation to renew the lease, at its

expiration, for another term of twenty-one years, upon the usual terms.

The "present value" of No. 136, 138, 140 and 142, Chambers-street is estimated in the *report* at $28,827.40. In December, about two months before the date of the *report*, the corporation itself, in a negotiation with the Hudson River Railroad Company, is proved to have fixed upon these same lots the valuation of $100,000—the ground rent upon which sum the Hudson River Railroad Company agreed to pay.

The "present value" of No. 275 Greenwich-street, is estimated in the *report* at $6,840.40. At actual sale, Trinity corporation is proved to have received for it from James H. Noe, a few days before the date of the report, the sum of $20,000.

The "present value" of Nos. 283 and 285 Hudson-street, is estimated in the *report* at $1,964.44. Actual sale to Joseph Tucker, as he testifies, about two months after the *report* was presented, realized to the church $20,000. It is shown that there was no change of any consequence in the value of that property during the six months previous.

The present value of No. 525 Greenwich-street, is estimated in the *report* at $1,375.10. Actual sale to Matthias Clark, about a week after the *report* was read, it proved to have brought the church $6,000. It is testified that there was no variation in value of any consequence during the six months previous.

The aggregate net value of the following nine lots, Nos. 205 and 207 Fulton street, 36 and 48 Vesey street, 13 and 15 Barclay street, 83 Murray street, and 18 and 44 Warren street, is given in the *report* as $105,875. It appears in the evidence that, previous to the date of the *report*, these same nine lots had been leased by the corporation on an aggregate valuation of $209,000.

Besides these cases of actual sale or leasing on new valuation, by Trinity corporation itself, estimates of the whole landed estate of the corporation have been laid before your committee, made under oath by four men represented to be of eminent ability and long experience. The two highest for the whole estate are by

Abner L. Ely and John M. Dodd, and though independently made, yet almost exactly coincide in the aggregate. Mr. Ely is the agent for the Langdon branch of the Astor family, and is employed or consulted by insurance offices to make valuations for loans an real estate, as indeed are also the other three. Mr. Ely's valuation for the whole is $6,103,500, Mr. Dodd's $6,087,-050—a difference of only $16,450; Mr. Ritch's is $5,431,520; the extreme difference between the estimates of these appraisers being only $671,980 in the aggregate. Messrs. Ely, Dodd and Ritch, on inquiry, all testify their willingness to purchase at their valuations. These valuations, moreover, are made for the ground alone, so that no deduction is required on account of buildings which are the property of tenants. The estimate of Mr. Aldrich is only partial, being for the down town lots alone, and differing but little from that of Mr. Ely. It is not here taken into the account.

Two very considerable items of property are to be added to those stated in the *report*. The first is, the bonds and mortgages which Trinity corporation has required from churches to which she has made appropriations, which bonds are drawn bearing interest from the date of the grant. These mortgages now amount to $319,525.15, principal; and the interest, computed up to January 1st, 1857, would amount to $252,427.71 additional; or $571,952.89 in all. These mortgages were omitted from the *report*, say the vestry, because they were not productive of income. "They are in reality only held," says the *suppliment*, "to secure to the permanent use of the Protestant Episcopal Church of the United States, the church buildings and property upon the security of which, this body has loaned money to other church corporations, for their aid and support. The vestry believe that no measures have been taken to foreclose any of such mortgages, or to collect interest upon them;" and the comptroller, Mr. Dunscomb, in his testimony, says: "Like other mortgages, there is a power to foreclose them, but we never take measures to collect them,—never have exercised the power." And yet the corporation has not only the legal power to compel payment, but that power appears to have been exercised more than once. From the *report* itself it appears that these mort-

gages do not suffice to "secure to the permanent use of the Protestant Episcopal Church" the buildings and poperty thus mortgaged; for the Vandewater street Church was sold, and Trinity corporation appropriated the proceeds in partial repayment of her advances. From a *report* of the corporation to the House of Assembly, in 1854, it appears also that premises of the Protestant Episcopal City Mission Society, thus mortgaged, were afterwards sold, and Trinity repaid herself to the amount of $8,720.51, principal, and $1,420 interest. Also in the testimony it will be seen that, in regard to St. Peter's Church, New-York, the corporation was tenacious of its legal rights both as to principal and interest, and refused to waive them, even for the benefit of a deeply embarrassed parish. Your committee do not find, from the schedule B of these mortgages (attached to the *supplement*,) that the interest accruing on these bonds has ever been remitted on renewing the mortgage, except in one instance. In some cases the interest now amounts to more than the principal. As these mortgages are therefore fully legal and valid, and may at any time be foreclosed, and are likely to be satisfied out of the proceeds of every such church in case of a sale, it seems but right to your committee that they should not be altogether omitted in a statement of the property of the corporation.

Another item, never heretofore inserted in any *report* made by Trinity Church, is her interest in St. John's-square. This is stated in the *supplement* to have been "an inadvertent omission." At the time of making the *report*, "it was not remembered that the corporation retained any beneficial property in the square which might, under certain contingencies, prove of large value." Circumstances during the past season having, however, brought this beneficial property to the remembrance of the vestry, that body, after much discussion, fixed upon the sum of $400,000 as that for which they would sell the interest in St. John's-square. That amount ought, therefore, to be added to the total of the property of the corporation.

It appears from the *supplement* that of the $199,469.41 of *productive* mortgages, mentioned in the *report*, $31,300 have been paid in, and $59,000 of new productive mortgages have been

added since the report was made. The present amount of this item is therefore $227,169.41.

The *report*, after stating the net value of the land in 1855 makes a further reduction by reason of the yet unexpired leases. The total amount of reductions on this account is $1,222,338.29. Supposing the same amount of deduction to be made from the estimates laid before your committee, and that the amount of the debt and the cash in bank remained unchanged, the true summary of the property of the corporation will then appear, compared with that in the *report* as follows:

IN THE REPORT.

Real estate,.....	$1,446,371 71
Bonds and mortgages,.....	199,469 41
Cash in bank at the end of the last financial year,	19,399 46
	$1,665,240 58
Deducting the debt,.....	648,913 00
Shows the whole net value to be,.....	$1,016,327 58

AS PROVED TO YOUR COMMITTEE.

Real estate (average of the estimates of Messrs. Ely, Dodd and Ritch, omitting altogether that of Mr. Aldrich,)		$5,874,023 00
Productive bonds and mortgages,.....		227,169 41
Church bonds and mortgages, with interest to January 1st, 1857, ...		571,952 89
St. John's-square,.....		400,000 00
Cash in bank,.....		19,399 46
		$7,092,544 76
Deduct on account of leases yet to run (as estimated in the *report* itself,).....	$1,222,338 29	
Debt,.....	648,913 00	
		1,871,251 29
Net total present value,.....		$5,221,293 47

More than five times the net total given in the report.

Or, if the church bonds and the beneficial interest in St. John's-square be deducted, as depending on uncertain or improbable contingencies for their actual realization, the net total of the present *productive* estate of Trinity corporation will still be $4,249,340.58, which is more than four times the net total given in the *report*.

Fifth Resolution.

"*Resolved*, also, That said vestry report to the Senate of this State, in the first week of January next, a statement of the number of lots belonging to said corporation, the leases of which have expired within the five years ending on the first of November, 1855, and whether said lots have been relet or have been sold."

It appears from the report that, during the five years last past, *forty-seven* lots have been relet, and *one hundred and thirteen* have been sold.

The testimony is uniform and strong to the effect that large masses of leasehold property eventually became inferior in character to property held in fee. The improvements on the leasehold property of Trinity corporation are generally cheap and poor, being mostly the worst in the neighborhood. Below Duane street, however, the improvements are good.

Thus far the original resolutions of inquiry.

In her *report*, however, Trinity Church has not confined herself to merely giving the information thus requested, but has voluntarily communicated a large amount of information besides, concerning her grants to the country churches as well as in the city, and from the year 1748 to the present time; in order as the *report* expresses it, to "lead to a just estimate of the unvarying policy, governed by which this corporation has from an early day continually dispensed abroad the property with which it was endowed."

This opens a wide field; but under the instruction of the Senate to your committee to examine not only into the *report* itself, but also into "the matters connected therewith," it is a field into which it is thus made the duty of your committee to follow, in

order to reach,—what the vestry desire to set forth,—"a just estimate" of the policy of the corporation. For this purpose, your committee condense as briefly as possible the full amount of information embodied in the evidence.

In 1697 the site of the parish church at the head of Wall street was given by the English crown for "the use and behalf of the inhabitants from time to time inhabiting and to inhabit within our said city of New-York, in communion of our said Protestant Church of England, as now established by our laws."

The act of incorporation in the same year made the corporation to consist of the rector, "together with all the inhabitants from time to time inhabiting and to inhabit our said city of New-York, and in communion of our aforesaid Protestant Church of England, as now established by our laws;" and the legal title of the corporation was therefore declared to be: "The rector and inhabitants of our said city of New-York in communion of our Protestant Church of England, as now established by our laws."

The act of the Colonial Legislature of 1704 confirms the essential powers of the incorporation by the same title, adding the words "and their successors."

The royal grant of what is commonly called the king's farm, (forming the bulk of the great estate of Trinity Church,) was made to the above incorporated parish, under the above corporate name, in the year 1705.

The Legislature of New-York in 1784 confirmed all the original powers of the corporation without altering the corporate name, which, however, in 1788, was altered so as to substitute the "Protestant Episcopal Church in the State of New-York," for the "Protestant Church of England;" and no further legislative action took effect until the year 1814.

The estate of Trinity Church originally consisted, according to the *report*, of 2,068 lots, of which, since the year 1748, 318 lots have been given away—691 remain, and 1059, as is inferred, have been sold, yet, owing to the rapid rise of property in the

city of New-York, the value of the 691 lots remaining is many times greater than was originally that of the whole estate.

Previous to the year 1814, it appears that the policy of the corporation was very liberal in making grants of land. A large landed endowment was given to King's (now Columbia) college and to Trinity school—institutions of learning in connection with the Protestant Episcopal church, as well as for several other public purposes. In regard to churches, the policy was clear and well defined. Within the fifteen years before 1814, Trinity had herself built and set off, as separate parishes with a competent endowment, three churches—St. Mark's, Grace and St. George's—besides giving several lots each to every one of the other churches then existing in the city as well as to a number of other churches out of the city of New-York.

With this policy of landed endowments, and of building and setting off independent parishes, thus firmly established and thus vigorously and liberally carried out, doubts were nevertheless entertained by some, whether it were a course which the corporation had legal power to pursue.

Application was therefore made, by Trinity, for the law of 1814—a law which makes a striking change in the title of the corporation, in the number of the corporators, and in the policy of the vestry.

That law was asked for, on the part of *Trinity*, on several grounds. As there were now other rectors and other incorporated churches in the city, it was considered proper to change the title from "The Rector and inhabitants of the city of New-York in communion of the Protestant Episcopal Church in the State of New-York," to "The Rector, Church-wardens and Vestrymen of Trinity Church in the City of New-York."

As the members of the other parishes had the right of voting for their own wardens and vestrymen, it was desired that they should be excluded from the right to vote for the church-wardens and vestrymen who should administer the great church estate. To this exclusion, the parishes then in existence (though not all the members of them) were at that time willing to sub-

mit, inasmuch as they had all, "without any exception, received liberal donations of real and personal estates from the corporation of Trinity Church," and yet, so strong was the feeling that all "the inhabitants of the city of New-York, in communion of the Protestant Episcopal Church," had a chartered interest in that estate, that the very law, which excludes all from voting except members of Trinity parish, ends with the proviso: "Provided always, that nothing in this act contained shall be construed to affect or defeat the right of any person or persons, or of any body corporate, to the estate, real or personal, now held, occupied or enjoyed by the corporation of Trinity Church:" a provisio which proves the right to exist, while nevertheless it is made an empty abstraction by the previous exclusion from the right to vote, by which alone the right of property could be enforced.

The III, IV and V sections of that law, forming the most voluminous and prominent part of it, are wholly devoted to the confirming of the past, and giving increased powers for the future carrying out the then well-established policy of the corporation, in promoting the growth of the church, by building, setting off, and endowing new churches with landed property enough to make them independent. Section III therefore declares valid all such grants and conveyances heretofore made, or that hereafter may be made. Section IV confirms the validity of the setting-off of St. George's Chapel, recognizing its full right to the endowment it had received from Trinity, as well as the consequent exclusion of its members from any further right to vote for church-wardens and vestrymen in Trinity parish. Section V provides for the future further subdivision of Trinity parish, dividing the congregation or corporators, by setting apart, as a separate church, any of the churches or chapels belonging to the parish (with the consent of those to be set off), and, after incorporation, gives such new parish full power to receive from Trinity "any grant, conveyance or gift of any chapel, or other real or personal estate for its separate use."

And as an inducement to the Legislature to pass this act of 1814, Col. Troup, who appears to have acted throughout as the

authorized agent of Trinity Church in procuring its passage, declared to the Council of Revision: "Judging from the past, it is morally certain that the future increase of the population of the city will strongly recommend to the corporation of Trinity Church the policy of dividing its corporators, and setting them off in separate churches, with suitable endowments, and to enable the vestry to do this in a mode free from all legal doubts, * * * is a fifth object of the bill." And again he says: "The bill, when passed into law, would have the happy consequence of enabling the vestry of Trinity Church from time to time, as society shall advance, to separate the churches, with the consent of their congregations, and to endow them with competent estates. No power can be more congenial than this to the spirit of our republican system. The frequent execution of the power, likewise, by breaking down the estate of Trinity Church, would allay the fears of those honest republicans who look upon large estates as nurseries of sentiments hostile to liberty, and it would calm the minds of those enthusiastic devotees who believe that religious societies, when possessing wealth, seldom employ enough of it in the heavenly work of propagating the gospel."

Under these inducements, and because the law appeared only to embody and perfect what had notoriously been long the established policy of the corporation, the bill, passed both houses. The other parishes of the city, having received a share of "real and personal estate," were silent; but a strong remonstrance against the law, as being unjust, was made by a number of members of the Protestant Episcopal Church in the city of New-York, and serious doubts were felt as to the constitutionality of disfranchising a majority of those who, by the charter, were entitled to a beneficial interest in the property. The Council of Revision was equally divided—three against three. One of the three who voted for it was the late Chancellor Kent, who, as appears in the evidence, afterwards became satisfied that the law was unconstitutional, and repeatedly expressed his opinion to that effect. As it was, it became a law by lapse of time, without ever receiving the approval of the Executive.

The policy of parochial independence and landed endowment being thus embodied in the law, the record of the gifts and grants of the corporation will show us the manner in which it was carried into effect. It appears that, of the 146 lots that have been given to churches, 137 were given before 1814, and only 9 since. Of the 172 lots given to other purposes, 162 were given before 1814, and only 10 since. Thus, in all of the 318 lots of land, (which is all that Trinity has ever given, from the beginning to the present day), 299 were granted before the law of 1814, and only 19 since. And for the last twenty years no land has been given at all for any purpose, except the five burial plots in the cemetery mentioned above.

The policy of landed endowment, which the law of 1814 was asked for to facilitate, thus appears to have been almost immediately given up, and has now for a long time been totally abandoned.

A similar contrast is found in other points. It was urged, as "morally certain," that the corporators would be divided, and chapels of Trinity set off in separate churches, with suitable endowments, but the corporators have never since been divided, nor has any church or chapel been set off. The frequent execution of this power," it was represented, would "break down," the estate of Trinity Church; but as it has never since been executed at all, the estate remains unbroken. The sales of lots have, indeed, reduced the geographical area of her lands; but the rise of property has made the present residue worth many times as much as the whole of the original King's farm. The estate of the corporation has therefore been steadily, and of late years very rapidly, increasing in value, instead of being "broken down."

The other great object of the original policy of Trinity corporation, as embodied in the law of 1814, was as has been shown, the ecouraging the formation of new and independent parishes; the endowment in land being, in fact, only a means to that end. Instead of land, Trinity has indeed continued to contribute to other parishes, but it has been wholly in the way of pecuniary grants, made either in specific sums or in annual appropriations

terminable at the pleasure of the vestry. And in order to obtain money to bestow in this way, more than half the original estate has been sold. The effect of this system, as appears from the evidence, has been to injure, instead of promoting the independence of the parishes thus aided. The sums of money were in most cases soon spent, and were followed by an application for more. The possibility of a stopping of the annual stipend would, indeed, naturally have a tendency to produce as great a reliance upon Trinity for opinions, as for pecuniary support ; especially when it is viewed in connection with the evidence of strong partizanship in making the grants, which is given in such decided terms by many of the witnesses, and strongly corroborated by the striking disproportion in the grants themselves, as stated in the report. Annual allowances are now made to no less than thirty-eight parishes, amounting in all to $16,875 a year.

Again : at or before the year 1834, there appears to have been developed another feature of this new policy, as bearing upon parochial independence, and this was, the regarding these money grants as loans, and, as a consequence from this, the requiring in return a bond and mortgage on the church edifice of the parish thus aided, drawing interest from date. This mortgaging with interest is represented in the supplement, as only done in order to secure such buildings to the permanent use of the church; and it is added, that the interest is never demanded or paid, nor are such mortgages ever forclosed; but it is acknowldged that the vestry has full legal power to do both.

There are now sixty-six parishes incumbered with these mortgages and accumulated interest, to the gross amount of nearly $600,000, all held by Trinity church, and they can hardly be considered in any other light than as mortgages upon that very independence which it was one object of the law of 1814 to secure.

Nor is even this all, for the aid of Trinity, when given as an annual appropriation or pension, or on mortgage, has been regarded, not as the administration of a trust for the benefit of those to whom it belonged by the charter, nor yet as a loan on

good security, but rather as a pure gratuity, "a bounty," an act of "munificence," for which due "gratitude" was expected ever after; a mode of regarding the subject liable to interfere still further with the independence of those thus aided. The weight of this sense of obligation has been still further increased by the frequency and facility with which applications have been refused and the ungracious and wearisome reluctance with which grants are obtained when obtained at all.

The result has been, that so far as the influence of Trinity has been able to make itself felt, the provisions of the law of 1814, for securing the independence of the parishes, seems to have been as completely frustrated as those intended to facilitate endowments in land.

The increase of population in the city of New-York, it was urged by the vestry, through Col. Troup, made it "morally certain" that Trinity would carry out the liberal policy embodied in that law. The population of the city has indeed increased from 105,000 in 1814 to 629,850 in 1855; but the corporators have not yet been divided, nor any church or chapel built and set off or endowed. One expensive pewed chapel has been, indeed, lately built for Trinity parish itself in one of the wealthiest portions of the city and in the neighborhood of several other churches. The wards inhabited mainly by the working classes, however, appear to have been almost totally neglected. In the 4th, 6th, 13th and 14th wards, with a population of 100,499 souls, there is not a single Episcopal church. The 8th, 11th and 16th wards, with a population of 128,626 souls, have each but one Episcopal church; and there are not in those wards missions or other arrangements of any kind for religious instruction by Episcopalians; nor does Trinity Church employ any clergyman as missionary at large anywhere throughout the whole extent of the city. One of the witnesses, a parish clergyman, speaks of the spiritual destitution of the northwestern portion of the city as "awful," and tells us that a communication to Trinity vestry from responsible persons concerning a most noble proposal to remedy it, never received the slightest attention that he was aware of. The increase of the city population

has been some 200,000 souls during the last ten years alone, and yet the increase of church accommodation for the poor is testified to be "very inconsiderable."

Trinity, it appears, has never built any church for the working classes, or in those parts of the city chiefly inhabited by them; nay, during the past few years, it seems that three churches situated in districts almost wholly inhabited by the working classes, or those still more destitute, have been lost to the Episcopal church in those localities. Of these, the two down town were Zion on the Five Points, sold to the Romanists; and the old Christ church in Anthony-street, sold for secular uses; nor has any effort yet been made by Trinity to supply their place. The third, St. Matthew's, though surrounded by landed estate of Trinity corporation, and the first free church ever founded in the city of New-York by individual liberality, has at length, after in vain laying its wants before Trinity vestry for six months, been reconveyed to the donor, and is now shut up and offered for sale: and in another case, where a clergyman, who not only serves his own parish without salary, but pays largely beside towards its necessary expenses, offered to give, himself, two-thirds of the cost for a new free church and church schools, in a most destitute portion of the city, if Trinity would give the other third, the offer was left for a year and a half unnoticed; and though renewed in a different shape a year ago, it has even as yet received no further attention, except to be unanimously reported against by the standing committee, to whom, of course, it was referred. It is added, that the reason given by individual members for this refusal, is the want of present pecuniary ability on the part of the vestry. Meanwhile of the few free churches which actually afford some small accommodation to the working classes, the greater part are stated to be but small, inferior buildings, and feebly supported. The new policy of Trinity corporation has therefore disappointed the authoritative representation of Colonel Troup, that it would make the Episcopal church keep pace with the increasing population of the city, as completely as it has frustrated the wise and liberal provisions for parochial independence by means of a competent endowment in land.

The evidence shows that another evil has arisen out of this failure on the part of Trinity Church to fulfil the pledges under which she obtained the law of 1814. The wealthy and liberal Episcopalians in the city, who give freely to other objects, will not relieve Trinity from her responsibility, by doing her duty at their own expense; and thus little or nothing is done, and the influence of Trinity succeeds in effectually preventing that very growth to which the law of 1814 gave her new powers in order to promote.

Nor does it seem that a policy so injurious to the rest of the city has been really of advantage to Trinity parish itself. Its congregations have indeed had two new churches built for them, at a cost of over $600,000, the whole of which appears to have been paid from the corporation estate.

But their own active liberality and zeal have been so far weakened, that their four congregations united do less, as is testified, than some single independent congregation in the same city, with little or no endowment. And even the administration of the vast and growing estate itself, seems to be affected by the same general torpor. There is so little interest in the vestry elections, that in eight out of the past ten years, an average of hardly one in ten of the corporators cared to appear; and, on one occasion, only 23 persons voted for the 22 wardens and vestrymen. The same characteristic apathy appears to extend even to the action of the vestry itself, where nearly everything is left to a standing committee of six, with the comptroller and clerk; and a vestryman not a member of that particular committee seems to know little or nothing of the business or state of affairs of the corporation. An annual statement of the affairs is indeed made by this committee, of late years, and is left in manuscript at the office for the inspection of such of the vestrymen as may wish to see it; and a committee of vestrymen, not members of the standing committee, is appointed to examine this annual statement; but in so doing, as is testified by a vestryman who has served on such examining committee, they are permitted to inspect only such of the books of the corporation as are referred to in the statement itself. The statement is never printed, the

vestry thinking it "not worth while;" and the corporators, of course, appear to know nothing about it.

It is no wonder that, in such a state of things, the question "Do you think that Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding or support or promotion of religious, charitable or educational institutions or purposes?" should be answered, as it has been by every witness asked, with a decisive "No;" or, with a negative, half veiled in such careful qualifications as only make its meaning more pointed. And it is no wonder that the policy of the corporation and its results are, as they are testified to be, the subject of general complaint among Episcopalians.

Your committee would present yet one more point of contrast between the results of the new policy and the old. The old policy gave to Columbia College its magnificent landed endowments; gave to Trinity school the larger part of its rich estate; did the same for St. Mark's, Grace, and St. George's churches; as also for the Society for the Promotion of Religion and Learning, which is now wealthy from its land; and a similar result has followed the many smaller endowments of land to other churches. All this permanent and growing good was accomplished by giving away only 318 lots. In carrying out the other policy, 1059 lots have been sold—more than three times as many as sufficed for all those splendid endowments put together; and the result of this alienation of more than half of the original estate has been to promote dependency, feebleness and deadness, to the degree which has been testified. Nor in a merely pecuniary point of view is it any better. For while Trinity herself estimates the present value of those 318 lots to be, to those now holding them, at least a million and a half, her own *report* sets down the aggregate of all the pecuniary grants and stipends paid out of the sale of the 1059 lots as only a trifle over one million ($1,007,530.83.) And time will make the 318 yet more valuable, with each year; while the latter is for the most part gone already, leaving only those "unproductive mortgages, on interest," behind.

It will be seen that there is no question raised in regard to the personal integrity, and no impeachment of the purity of personal motive, of any member of that corporation. Your committee have merely, from the evidence before them, drawn an outline of the policy of the corporation, as embodied in its own acts before and since the law of 1814. And they find that "a just estimate of that policy is, not that it has been "unvarying," as the *report* claims in its behalf, but so completely changed as to be the opposite of that which it once was, and which it promised to continue to be. Instead of being "unvarying," therefore, it has simply been reversed.

There is one part of the law of 1814 which has not yet been referred to. It has been seen that the great majority of Episcopalians in the city of New-York, have been excluded from all vote or voice in the management of this great estate; and that no report is ever made, even to the corporators of Trinity parish, or the beneficiaries under the trust. It is well known that the convention of the Episcopal diocese of New-York is purely an ecclesiastical body, having no power to inquire into the management of the temporalities of any parish, and it does not appear that any knowledge of its affairs, which exists even among its own corporators, is derived except from the printed *reports* made to resolutions of enquiry passed by one or the other of the Houses of the Legislature. The Legislature, then, being the only body where responsibility can be clothed with practical effect, there is meaning in the following portion of the last section of the law of 1814: "*And be it further enacted*, That in every case where a church or religious society, which has been or may be duly incorporated, shall have exhibited such account and inventory as is specified in the ninth section* of the act entitled 'An act to provide for the incorporation of religious societies,' it shall not be necessary for such church or society again to exhibit any account and inventory, unless the said church or society, subsequent to such exhibition, shall have purchased or acquired any lands, tenements or hereditaments within this State, any act, law or usage to

* The 10th section of the law as revised and re-enacted in 1813.

the contrary notwithstanding." Your committee suppose that it is in implied reliance upon this provision of the law of 1814 that the corporation, in its report, complains so grievously of your resolutions of inquiry. It does not "acknowledge the power of the Senate to exact such information;" declares that such requisition "is not justified by any legal principle, and is oppressive of this corporation," and "an assumption of the powers of the courts." The vestry add, that they "have found the answer to these repeated requirements expensive and onerous, and believe them to be an infringement of the chartered rights of Trinity church;" and "they humbly protest against the right of the Legislature, or either branch of it, to call for reports from this vestry relative to the condition or affairs of this corporation." The above quoted section of the law of 1814, would indeed excuse the corporation from making any additional account or inventory; no additional property having been purchased since the report of 1854 was made. Yet reference is made in the report, to "chartered rights," but not to this law of 1814. And it is a remarkable peculiarity of the report and supplement, as well as the previous reports of 1846 and 1854, and other publications emanating from Trinity church (all of which have been consulted by your committee, as of the highest authority in behalf of the corporation), that in not one of them all is there the slightest allusion to the law of 1814, or any hint that any such law was ever passed.

But though this section of that law was evidently intended to relieve the corporation from making any further report of its affairs, yet your committee are of the opinion that it can hardly bind this Legislature, when the very object of the inquiry, is to ascertain whether the other provisions of that same law have been fairly carried out. And in view of the true state of facts, as now drawn forth by this inquiry, namely, that only those parts of that law have been actually put in use which conferred upon the corporation the power to reverse the policy embodied in the remainder, and thereby to sacrifice everything promised, in order to carry out the only possibility which had been expressly disclaimed when the law was asked for. In this state of the facts, which are thus made apparent, it seems but a natural conse-

quence that the complaint and protest of the report disappear altogether in the supplement.

Your committee do not charge that, in obtaining the law of 1814 under the representations employed for that purpose, the corporation were guilty of deliberate and premeditated fraud in setting forth inducements which they never intended to realize; for there is no doubt that, both in obtaining the law and in subsequently altering their policy, the members of the corporation were actuated by their honest convictions as to what was best for the interests of the church, as they understood them; and doubtless believed that the success of the section to which the vestry belonged, and the carrying of the measures in which it was interested, was of more consequence to the ultimate good of the church, than any incidental evil resulting from the change. But thus much your committee feel bound to say, that, *if* there *had* been any such fraudulent intention to obtain power under that law, in order to defeat the very ends which it proposed to secure, your committee cannot see that it would have been necessary for the corporation, in that case, to alter in any respect that which *has* been their *actual course*, in order to carry out such fraudulent intention with entire success.

It will be remembered that the terms of the original grant of the estate of Trinity Church stated it to be for the benefit of the inhabitants of the city of New-York in communion of the Episcopal Church. It appears from the *report* that a very large aggregate of grants has been made for the benefit of churches, individuals and institutions out of the city of New-York. Yet your committee have heard no complaint of any such appropriation. On the contraty, all the witnesses testifying are unanimous in denying that even the wish exists, in the city, to diminish or prevent the grants made for the aid of churches in the country. The evidence shows that those who complain most deeply of the policy of the corporation in other respects, are themselves liberal with their own means in aiding the poorer churches in the rural districts; and their only regret is, not that Trinity does so much for the country, but that she does not do more, both for the country and the city out of her abundant and rapidly increasing

means; instead of holding the estate, in mass, for steady accumulation.

The committee consider that their duty terminates by placing before the Senate in this report the prominent and important parts of the testimony, and in submitting the documents received during the investigation, with all the testimony they have taken; which is now respectfully submitted, for such action by the Legislature as the importance of the interests involved may be supposed to require.

M. SPENCER,
JAMES NOXON,
J. H. RAMSEY,
Select Committee.

EXHIBIT C.

New-York, Nov. 29, 1856.

To the Vestry of Trinity Church, in the City of New-York:

Sirs.—On the 19th of February last you caused to be presented, to the Senate of the State of New-York, a communication, in reply to a resolution passed by that body on the 13th of April, 1855. That communication was referred by the Senate to the undersigned, as a special committee.

The Senate subsequently, by resolution, authorized the select committee, to whom had been thus referred the said report of Trinity Church, to examine into the matters connected therewith during the recess, and to report to the next Legislature.

In pursuance of such reference and authority, and in discharge of the duties thus devolved upon them, the committee will meet on Tuesday the 2nd day of December next, at 10 o'clock A.M., at the rooms of the committee, in the Bank of Commerce buildings, in Nassau street, opposite the Post Office, in this city; and at the same hour and place on each succeeding day (Sundays excepted), until the said examination shall be completed.

Should the vestry of Trinity Church desire to present, to the committee, any statement or explanation in regard to any of the matters referred to them, the committee will afford them an opportunity of doing so, at the place above mentioned, and at any time during the said examination, that may be most agreeable to the vestry of Trinity Church.

We are, sirs, respectfully,

Your obedient servants,

EXHIBIT D.

OFFICE OF THE CORPORATION OF TRINITY CHURCH,
No. 187 *Fulton street, New-York, Dec.* 2, 1856.

To the Hon. M. Spencer, James Noxon and
Joseph H. Ramsey, Special Committee of the Senate:

Gentlemen—I duly received your communication of the 29th ult., addressed "to the vestry of Trinity church in city of New-York," saying you intended to meet this day, and on each succeeding day, to examine the matters of its report to the Senate in February last, and that should the vestry desire to present to the committee any statement or explanation in regard to the matters of the report referred to it, the committee would afford them an opportunity of doing so.

If the committee will be pleased to communicate to me for the vestry, what statement or explanation it wants in regard to any of the matters contained in the report, I will feel it my duty to submit the same, and doubt not they will cheerfully and promptly furnish the requisite statement or explanation to the committee.

I am very respectfully, your obedient servant,
WM. E. DUNSCOMB,
Comptroller, &c.

EXHIBIT E.

NEW-YORK, 2d Dec., 1856.

To the Vestrymen of Trinity Church, in the city of New-York:

GENTLEMEN—In reply to yours of this morning, the committee have to say that, they desire the information required under the resolutions of the Senate of April 13, 1855, in reference to the names of the persons entitled under an act to alter the name of the corporation of Trinity church, and for other purposes, passed January 15, 1814, to vote at the annual election for church wardens and vestrymen of the present corporation of Trinity church; specifying those who vote as communicants, and those who vote as pew holders in the said church; and the names of the persons who did actually vote at each of the three last annual elections, held for the choice of church-wardens and vestrymen of said corporation; also whether the corporation of Trinity church have any additional mortgages or securities, besides those set forth in their last report to the Senate; if so, a schedule showing names of mortgagors, amount secured and unpaid, and when given. Also the real value of each lot or parcel of land, owned by said corporation, irrespective of the leases thereon.

Very respectfully, etc.,

M. SPENCER,
J. NOXON,
J. H. RAMSEY,
Committee.

[COPY.]

EXHIBIT F.

OFFICE OF THE CORPORATION OF TRINITY CHURCH,
(A. No. 1.) *New-York, April — A. D.*, 1855.

Received from Charles H. Clayton, the sum of sixty-four dollars, to and for the use of the corporation styled "The Rector, Church-wardens, and Vestrymen of Trinity church, in the city of New-York," for and in consideration of which the said corporation doth, by these presents, grant and assign, to *him* and to *his* family, at the times, and upon the occasions, mentioned in the schedule hereto annexed, for the term commencing on the first Sunday after Easter, in this present year, and continuing to and including Easter day in the next year, and no longer, the use and easement of the seat, slip, or pew, being in the chapel of the said corporation, erected between West 25th and West 26th streets, near to the Broadway in said city, called Trinity chapel; such seat, slip, or pew, being numbered one, and situated on the *east aisle, west side.*

It being expressly understood, that such use or easement is subject to the regulations, and upon the terms and conditions set forth in the said schedule heretofore annexed.

W E. DUNSCOMB, *Comptroller.*

SCHEDULE

Of regulations respecting the pews in Trinity chapel, and of the terms and conditions of the letting referred to in the above memorandum, and to be taken as part thereof:

I The privilege, or right, granted by the above memorandum shall not be assigned.

II. The exclusive right, or privilege, above granted shall be claimed and enjoyed at and upon the following times and occasions only, that is to say: The ordinary morning and afternoon

services of every Sunday in the year, Christmas day, Good Friday, Accension day, and Thanksgiving day, and upon no other day, and at no other times of those days, and upon no occasion of Divine service at night.

III. After the expiration of the term for which the privilege or right within mentioned has been granted, that is to say, on one of the three last days of Easter Week, in the year 1856, the same privilege or right for another term, commencing on the next Sunday thereafter, and ending on, and including Easter Day in the year succeeding, be the term greater or less than a year, will be disposed of to the highest bidder, unless the previous holder of such privilege or right shall apply and agree for the same before such time, and pay the sum required therefor, at the office of said Corporation. Notice of the amount of rent demanded for the next term will be given to such of the occupants as shall have lodged in the office of the Corporation a memorandum of the place to which such notice shall be sent, one month before the time appointed for the letting.

IV. The above agreement, or the occupation of a seat, does not give to any person the right and privilege of a corporator. Copies of the ordinance of the corporation "to regulate the annual elections," &c., passed March 25th, 1844, can be obtained at the office of the corporation.

V. No alteration shall be made in any seat, slip or pew, or of the furniture, without the consent of the vestry, or of their officer, agent, or servant duly authorised.

VI. There shall be no name or mark put upon any seat, slip or pew.

VII. If any repairs become necessary, notice thereof must be given to the sexton.

VIII. During divine service, after the reading of the portion of the Psalter, the sexton may put strangers into the seats, slips or pews, that are wholly unoccupied by the tenant, or by some person for him.

OFFICE OF THE CORPORATION OF TRINITY CHURCH, }
April, 1856. }

Received from Charles H. Clayton, sixty-five dollars, for the use of within mentioned pew No. one, in Trinity chapel, during the term commencing Easter Monday, in this year, and ending on the first day of May, next year, such use to be subject to the regulations, and upon the terms and conditions contained in the schedule annexed to within agreement, except the fourth.

$65. WM. E. DUNSCOMB, *Comptroller.*

OFFICE OF THE CORPORATION OF TRINITY CHURCH, 185 .

Received from dollars, for the use of within mentioned pew No. , in Trinity chapel, during the term commencing on the first Sunday after Easter, in this year, and ending on Easter Day, next year; such use to be subject to the regulations, and upon the terms and conditions contained in the schedule annexed to the within agreement.

$ *Comptroller.*

OFFICE OF THE CORPORATION OF TRINITY CHURCH, 185 .

Received from dollars, for the use of within mentioned pew No. , in Trinity chapel, during the term commencing on the first Sunday after Easter, in this year, and ending on Easter Day, next year, such use to be subject to the regulations, and upon the terms and conditions contained in the schedule annexed to the within agreement

Comptroller.

EXHIBIT G.

To the Rector, Wardens and Vestrymen of Trinity Church, New-York:

GENTLEMEN—The undersigned, Wardens and Vestrymen of St. Matthew's Church in this city, beg leave respectfully to represent: That some three years since, they submitted to your corporation a full statement of the condition, means and wants of this parish, and asked for such an appropriation from the church property in your trust, as would enable them to make some indispensable repairs and improvements—pay off the mortgage, which rests upon the parsonage house and lot—and some other debts. In about one year, that application was responded to by an increase of $200 per ann. for five years, to the $300 previously received. In other words, it was a grant of $1000, payable in semi-annual instalments for that period. That was the only application we ever made to your body for aid, until the present: and this we beg to say will be the last, unless the response be more in accordance with the imperative necessities of our case.

St. Matthew's was the first church ever founded in this city by individual munificence. It has no endowment whatever, and not one wealthy individual belongs thereto. It has been established nearly fourteen years. It is contiguous to the church estate in your custody, and many of its congregation live thereon. It is virtually a free church, and for some years was actually so. Its revenues from pews does not now exceed $500 per ann. and is constantly growing less by the removal of its members to the upper wards of the city, and into its suburbs. It has a debt of about $1,300, beside a mortgage of $3,500 on the parsonage; we have had to pay during the past year, over $400 for city taxes and assessments. The church edifice is old, uninviting in appearance, and much needs repair. It cannot be encumbered by debt or lien of any kind. We have exerted ourselves to the utmost, and cannot consent to continue this struggle beyond the 1st of May next ensuing, unless such aid shall be received from the church funds in your custody as will enable us to cancel our present indebtedness, repair, and put the church edifice somewhat on an equality with others around it, and ensure its rector a salary of not less than $1,200 per ann.

We lay these facts before you, gentlemen, in the spirit of christian candor, and with all courtesy. It now remains with you to say, whether on the 1st of May next, this parish shall cease to exist, and the property be returned to the donor thereof, for the want of some of that nursing aid, which is now indispensable to its continuance. As you hold ample means, and hold them for such purposes in this city, on you must the responsibility rest of so painful an event.

In conclusion, gentlemen, it only remains for us to solicit as early an expression of your pleasure in this matter as is convenient: and to submit for your information the following resolution of our vestry, this day adopted:

Resolved unanimously, "That this vestry, feeling assured, that from causes beyond their control, a crisis has come in the affairs of this parish, which without extraneous aid it cannot survive, and cordially endorsing the statement of facts in the accompanying application to Trinity Church, do now agree and declare: That the continuance of this parish beyond the first day of May next ensuing, or its extinction at that time, be dependent upon the action of Trinity Church Corporation in the premises. And in the event of no satisfactory arrangement being had by the 1st of February next ensuing, the rector, and church-wardens, with Messrs. Burtnett, Bunn and Phelps, be, and are hereby appointed a committee, with full power, to arrange and settle all pecuniary obligations against the vestry, with any means belonging thereto at their disposal: with a view to restore the church edifice, lots, and appurtenances as received, to the Rt. Rev. Bp. Eastburn, in a legal manner."

With high consideration, we are gentlemen,

Very respectfully your ob't sevants,

PHILIP REYNOLDS, } *Wardens.*
JOSIAH RHODES, }

DANL. BURTNETT,
GEORGE JEFFERDS,
WM. H. PHELPS,
EWD. H. MERCER,
MARTIN T. BUNN, } *Vestrymen.*
MOSES DEVOE,
JOHN BOGERT,
THOMAS BELL,

EXHIBIT J.

No. 1,

Church edifice.

No. 2,

No.			Ely's.	Dodd's.
109	Greenwich-st.,	27.2x100	$20,000	$16,000

No. 3,

Church edifice.

No. 4,

199	Fulton-st.,	21.2x82.0	$20,000	$16,000
201	do	28.10x82.0	30,000	21,300
205	do	24.9x82.0	22,000	19,000
207	do	25x82.0	22,000	19,500
209 & 211	do	25x82.0	27,000	19,500
55	Vesey-st.,	25.2x81.0	22,500	18,000
48	do	27.1x101.4	27,000	19,000
36	do	24.9x101.0	32,000	20,000

No. 5,

9	Barclay-st.,	25x74	35,000	30,000
13	do	25x74	35,000	30,000
15	do	25x74	35,000	30,000

No. 6,

77	Murray-st.,	25x200	25,000	18,000
83	do	25x100	24,000	19,000
69	Warren-st.,	25x75	20,000	18,000
75	do	24x75	20,000	17,500
85	do	25x75	18,000	16,000
87	do	25x75	18,000	16,000

	No. 7,		
136 & 138 Chambers-st., ...	52x50	$50,000	$35,000
140 do	22x50	17,500	15,000
142 do	25x50	19,000	17,000
148 do	25x75	25,000	18,000
147 do	25x75	27,000	18,000
155 do	25x75	25,000	17,000
157 do	25x75	24,000	17,000
159 do	25x75	24,000	17,000
161 do	25x75	23,500	17,000
163 do	25x75	23,500	17,000
273 Greenwich street, ...	25x65	18,000	14,000
275 to 281 do	75x90	60,000	50,000
	No. 8,		
49 Warren street, ...	25x75	27,500	23,000
51 do	25x75	27,500	23,000
44 do	25x100	35,000	28,000
56 do	25x100	30,000	28,000
112 Chambers-street, ...	25x75	30,000	28,000
114 do	25x75	30,000	28,000
89 Reade street, ...	25x62	18,000	18,000
	No. 9,		
251 Broadway, ...	25.1x105	100,000	115,000
252 do	25.2x106	80,000	90,000
256 do	75.1x107	80,000	90,000
5, 7 & 9 Murray-street, ..	14.11x100	150,000	150,000
10 Warren-street, ...	25x100	45,000	48,000
18 & 20 do	25x100	85,000	90,000
30 do	25x100	40,000	45,000
69 Reade-street, ...	25x75	40,000	45,000
71 do	25x75	17,000	16,000
	No. 10,		
156 Reade-street, ...	25x49.9	7,500	7,500
	No. 11,		
104 Reade-street, ...	25.6x83	20,000	20,000
106 do	22.6x83	19,000	19,000
108 do	26x83	20,000	20,000
110 do	25x83	20,000	20,000

		No. 12,		
60	Reade-street, ...	25x83	$30,000	$30,000
74	do	25x83	25,000	25,000
		No. 13,		
32	Harrison-st., ...	24x76	6,000	7,000
		No. 14,		
368	Greenwich-st., ...	25.6x71	6,000	7,000
372	do	25x100	8,000	10,000
374	do	20.11x100	7,000	8,000
376	do	12.6x40	6,500	9,000
378	do	41.11x27.10		
380	do	24.7x40	4,000	6,000
382	do	25.5x100	8,000	10,000
384	do	25x91	8,000	9,500
		No. 15,		
377	Greenwich-st., ...	28.6x100	9,000	10,000
379	do	22x100	7,000	8,000
381	do	25x100	8,000	9,000
283	do	25x55	6,000	6,000
387	do	25x100	8,000	9,000
389	do	25x100	8,000	9,000
391	do	25x100	8,000	9,000
393	do	26x100	8,000	9,000
397	do	24.10x100	12,000	12,000
		No. 16,		
50	Varick-st., ...	28.8x175	18,000	15,000
		No. 17,		
415	Greenwich-st., ...	25x55.9	5,500	6,000
415½	do	17½x56	2,500	3,000
417	do	20.3x56.8	2,500	3,000
419	do	14x70.7	4,000	4,500
421	do	15.3x54.10	2,000	2,500
423	do	24x57	3,250	3,500
425	do	25x58 (4.500)	4,500	4,500
427	do	25x68	6,500	6,750
10	Hubert-st., ...	25x88	6,500	5,500
59	Laight-st., ...	25x75	5,000	5,500

No. 18.

173	Hudson-st.,	23x100	$9,000	$9,000
175	do	23.3x100	9,000	9,000
177 & 179	do	33x70	10,000	10,000
181	do	22.1x99.8	9,000	9,500
183	do	22.1x99.8	7,500	8,000
185	do	21.11x99.8	7,500	8,000
187	do	23.11x99.8	7,500	8,250
189	do	20.2x75	6,000	6,500
191	do	25.5x74	7,000	7,500
193	do	25.5x74.3	7,000	7,500
54	Laight-st.,	20.9x74	4,000	4,500
56	do	20.11x79	4,000	4,500
58	do	24.5x80	4,500	5,000
60	do	25.2x85	5,000	5,500
31	Vestry-st.,	25x107	5,500	6,000
33	do	29.7x100	6,000	6,000
35	do	22x100	5,000	5 000
37	do	20.6x96	4,750	4,750
39	do	21.5x94	4,750	4,750
41–45	do	62.9x86 church		
32	do	25.7x104	5,500	6,000
34	do	25.1x90.8	5,000	5,500
36	do	24.10x90	5,000	5,250
38	do	25.1x89	5,000	5,000
40	do	25.3x88.6	5,000	5,250
42	do	25.1x88	5,000	5,500
3	Desbrosses-st.,	26.6x88	5,000	5,500
5	do	25.2x78.8	4,500	5,000
7	do	25.2x99.10	4,500	5,000
9	do	24.10x99.6	4,500	5,000
11	do	25x91	4,500	5,000
13	do	24.10x91.4	4,500	5,000
15	do	25x91.8	4,500	5,000
17	do	24x50	2,500	3,000
19	do	15.1x50	1,750	1,950
429	Greenwich-st.,	23x100	10,000	10,000
431	do	25.6x100.8	7,500	8,000

433	Greenwich st.,	26.4x100	7,500	6,000
435	do	25x101	7,500	8,000
437	do	21.7x59.9	4,000	4,500
439	do	28.11x59.8	5,000	5,500
441	do	23.3x59.8	6,000	6,500
443	do	26x100	7,000	7,500
445	do	26x100	7,000	7,500
447	do	24.7x100	7,000	7,500
449	do	25.8x100	7,000	7,500
451	do	25x100	7,000	7,500
453	do	25x64.2	4,000	5,000
455	do	25.8x58.9	6,000	6,500

No. 19.

4	Desbrosses-st.,	24.2x90.8	5,000	6,500
6	do	25.6x89.3	5,000	5,750
8	do	25.1x88.6	5,000	5,000
10	do	25.2x87.9	5,000	5,000
16	do	30x52.3	4,000	4,500
18	do	25.3x52.3	3,500	4,000
20	do	29x51.5	4,000	4,500
457	Greenwich-st.,	25.6x50	5,500	6,000
459	do	25.6x50.2	4,000	4,500
463	do	24x103	7,000	7,000
465	do	20.6x75	5,000	5,000
467	do	30x75.6	6,500	6,500
205	Hudson-street,	21.11x66.3	6,000	8,000
207	do	21.4x661	5,000	6,000
209	do	21.10x65.10	5,500	6,500
211	do	22.1x64.1	7,000	8,000
484	Canal-st. ave.,	51x120	30,000	30,000
61	Watts-street,	19.11x94.3	7,000	7,000
63	do	20x94.3	7,000	7,000
65	do	25.2x87.3	7,000	7,000
67	do	21.9x75	5,000	5,500
69	do	13x51	1,500	1,500
71	do	24.10x74	4,000	5,000

	No. 20.			
182	Hudson street, ...	20x60	6,000	6,500
186	do	19.5x64	5,000	5,000
190	do	20x70	5,500	5,500
194	do	20x70	5,500	5,500
196	do	20x65	5,500	5,500
198	do	19.9x53	5,000	5,000
200	do	20.3x40	4,000	4,000
202	do	20x28	3,500	3,500
204	Canal street, ...	41x42 triangle,	8,000	9,000
464	do	2 .11x23.8	4,000	4,500
462	do	20.5x40	4,500	4,750
460	do	12x47	2,500	3,000
458	do	12x50	3,000	3,250
456	do	12x55	3,500	3,500
454	do	21.4x60	5,500	5,500
452	do	21.4x97	7,000	8,000
450	do	21.4x100	9,000	9,000
444	do	23.2x90	9,000	8,500
442-440	do	51.8x58 6	12,000	13,300
438	do (through to Vestry).....	25x65	10,000	10,000
	No. 21.			
28	Renwick-st., ...	21x60	3,500	3,000
34	do	25x83.6	4,500	4,500
36	do	25x60	4,000	3,750
40	do	24.10x60	4,000	3,750
42	do	25.3x60	4,000	4,000
283	Hudson-st., ...	25x90	8,500	9,000
285	do	25x90	8,500	9,000
	No. 22.			
83	Varick-st., ...	25x86	5,000	5,500
85	do	25x100	5,000	5,500
89	do	25x100	5,000	5,500
91	do	25x100	5,000	5,750
93	do	24.10x53	4,500	4,500
35	Watts-st., ...	25.1x107	4,500	5,000

37	Watts-st., ...	25.1x89	4,000	4,500
39	do	25x80	3,750	4,000
41	do	25x80	3,750	4,000
43	do	18.7x60.8	2,500	2,800
45	do	18x60	2,500	2,800
47	do	20x60	2,750	3,000
49	do	20x55	2,750	2,800
51	do	20x48	2,500	3,000
53	do	20x42	2,500	3,000
55	do	20x35	2,500	3,000
485 483 581	Canal, Watts and Hudson-streets,.....	28.8x43	8,000	8,000
479	Canal (& Watts) streets	201x60	8,000	8,000
477	do	20.1x33	3,500	3,500
475	do	24.7x40	4,500	4,000
473	do	17.7x46	4,000	3,800
471	do	17.8x53	4,000	4,000
469	do	20x57	5,000	4,500
467	do	25.4x73	8,000	8,000
465-463	do	25.10x100	8,500	8,300
461	do	22.10x87	8,000	9,000
459	do	17.10x100	7,000	8,000
457	do	17.10x100	7,700	8,000
455	do	17.10x100	7,500	8,000
453	do	17.10x100	7,500	8,000
451	do	17.11x88	7,000	6,500
449	do	17.11x80	7,500	6,250
447	do	17.10x75	6,000	6,250

No. 23.

417 419	Canal-st.,..... ..... do	25.10x76 26.4x72	25,000	25,000
421	do	25.2x82.6	10,000	13,000
6	Sullivan-st., ...	21.2x38	included in Canal-st.	162 & 164
8	do	25x71	4,000	4,000
10	do	25x81.8	4,000	4,000
15	Grand-st.,..... ...	50x100	9,000	10,000

S. E. corner of Grand and Varick-st.,		86x93.6	$32,000	$32,000
80	Varick (cor. Grand-st.)	25x75	7,500	7,500
82	do	25x75	5,000	5,000
84	do	25x75	5,000	5,000
86	do	24x69	4,500	4,500
88	do	22x57	4,500	4,500
90	do	25x50	5,000	4,000
92	do c.of Watts,	25x50	5,000	5,000
539	Broome-st.,	25x85	5,000	5,000
541	do	25x85	5,000	5,000
543	do	25x85	5,000	5,000
545	do	25x85	5,000	5,000
547	do	25x85	5,000	5,000
	No. 24.			
119	Varick-st.,	25x90	6,000	6,000
121	do	25x90	6,000	6,000
123	do c. Dominick,	25x56.8	5,500	5,500
125	do	26x54.8	5,500	5,500
127	do	24x54.8	3,500	3,500
129	do	25x76.8	5,500	4,500
	No. 25.			
540	Broome c. Clark,	25x48.2	4,000	3,500
5	Clark st.,	24.2x75.9	4,000	3,500
7	do	24x75.3	4,000	3,000
9	do	24x75.3	4,000	3,000
21	do c. Dominick,	24.6x56.10	4,000	3,500
23	do	25x56.10	3,000	3,000
25	do	25x75	4,000	4,000
8	Dominick-st.,	25x84.7	4,000	3,000
10	do	25x84.7	4,000	3,000
12	do	25x84.6	4,000	3,000
14	do	25.3x84.6	4,000	3,500
5	do	24.10x74.10	4,000	3,500
7	do	24.11x74.10	4,000	3,000
9	do	24.11x74x10	4,000	3,000
11	do	25.2x74.10	4,000	3,000

13	Dominick-st.,	26.6x74.10	$4,000	$3,000
114	Varick-st.,	24.2x99.6	6,000	6,000
116	do	24.2x99.6	6,000	6,000
120	do	24x48	5,500	4,000

No. 26.

536	Broome-st.,	25 5x78.5	3,500	5,000
538	do c. Clark,	24.6x65	4,500	5,000
6	Clark-st.,	22.6x68	3,000	4,000
16	do	25x90	4,500	4,500
18	do	25x90	4,500	4,500
22	do	25x90	4,500	4,500
24	do	25x90	4,500	5,000
26	do	25x90	4,500	5,000
202	Spring-st., c. Clark,	22x75	6,000	5,500
200	do	23.2x75	5,000	5,750
198	do	22.5x75	5,000	5,000

No. 28.

303	Hudson, n. w. c. Spring,	25.8x50.2	5,500	6,000
305	do	20.3x50	3,000	4,500
307	do	20.3x50	3,000	4,000
309	do	20.3x50	3,000	4,000
311	do	20.3x50	3,000	4,000
313	Hudson-st.	20.9x75	4,500	5,000
315	do	20.9x75	4,500	5,000
317	do	20.9x75	4,500	5,000
319*	do	20.9x75	4,500	4,500
321	do s.w.cr.Vandam,	24.9x75	7,000	6,000
323	do n.w. do	32x25	3,000	3,000
325	do	17.11x25	1,500	1,500
327	do	16.8x50	2,500	2,500
329	do	16.8x50	2,500	2,500
331	do	16.8x50	2,500	2,000
333	do	25x100	6,000	6,500
335	do	22.5x50	3,250	3,500
337	do	21x50	3,250	3,500
339	do	34x50	6,000	5,500

*These two lots include No. 80 Vandam-st.

267	Spring-st.,	.....	25x100	$7,500	$7,500
269	do	.....	25x100	6,000	7,000
271	do	.....	24.10x100	6,000	6,000
275	do	.....	25.2x100	6,000	6,000
277	do	.....	25.2x100	6,000	6,000
279	do	.....	25x100	6,000	6,000
281	do	.....	25x100	6,000	6,500
283	do	.....	25x75	5,000	6,000
285	do	.....	25x50	4,000	5,500
315	do	.....	24x25	1,500	2,000
317	do	n.e.c.Greenwich,	26x25	2,500	4,000
82	Vandam-st.,	.....	20.10x113	5,000	5,000
84	do	.....	22x113	5,500	5,000
86	do	.....	25x113	5,500	5,000
88	do	.....	25x173	5,500	5,000
90	do	.....	25x113	5,500	2,000
92	do	.....	25x113	5,500	5,000
94	do	.....	24.10x113	5,500	5,500
96	do	.....	21.8x38.6	1,759	2,000
98	do	.....	16x38.6	1,200	1,500
81	do	....	25.1x50	3,000	4,000
90	Charlton,s.w.c.Hudson-st.,		50x36.6	See 339 Hudson.	
94	do	.....	25x75	5,000	6,000
96	do	.....	24.10x75	5,000	5,500
517	Greenwich-st.,	.....	25x50	4,000	4,500
519	do	.....	25x75	5,000	5,000
521	do	.....	25x100	6,000	5,500
523	do	.....	25x100	6,000	5,500
525	do	.....	25x100	6,000	5,500
527	do	.....	25x98	6,000	5,500
529	do	.....	19.3x61.6	3,000	4,500
531	do	s.e.c. Vandam,	19.6x61.6	4,000	6,000
539	do	n.e.c. do	25 2x51	5,500	6,000
541	do	.....	25.2x99.9	6,000	6,000
543	do	.....	25x99.9	6,000	5,500
547	do	.....	15x100	3,000	3,750
549	do	.....	15x100	3,000	4,750
551	do	.....	20x100	4,500	4,500

553	Greenwich-st.,	25x75	$5,000	$5,500
555	do	25x75	6,000	7,000

No. 29.

141	Varick-st,	20x50	2,500	3,000
143	do	19x50	2,400	2,750
145	do	20.6x50	2,500	2,500
147	do	19.6x50	2,400	2,500
149	do	23x50	2,700	2,750
163-163	do	25x75	5,000	4,500
231	Spring-st., cor. Varick,	25x50	5,000	6,000
239	do	55x51	3,000	4,500
235	do	25x114	6,000	7,000
237	do	25.2x114	6,000	7,000
239	do	25.2x114	6,000	7,000
241	do	25x114	6,000	7,000
245	do	25.1x114	6,000	7,000
247	Spring-street,	25.3x114	6,000	7,000
249	do	25x114	6,000	7,000
251	do	25x114	6,000	7,000
253	do	25x114	6,000	7,000
255	do	25x114	6,000	7,000
259	do	25x50	4,000	4,500
261	do n. e. cr. Hudson,	25x50	6,000	6,000
44	Vandam-st.s.w.cr.Varick	25x51.4	4,000	4,000
46	do	25x51	2,500	3,500
48	do	25x100	4,500	5,500
50	do	25x100	4,500	5,500
52	do	25x100	4,500	4,500
54	do	25x100	4,500	4,500
56	do	25x100	4,500	4,500
58	do	25x100	4,500	4,500
60	do	25x100	4,500	4,500
72	do	25x100	4,500	4,500
64	do	25x100	4,500	4,500
66	do	25x100	4,500	4,500
68	do	25x100	5,000	5,000
70	do	25x100	6,000	5,500

51	Vandam st.,	25x100	$4,500	$5,000
53	do	25x100	4,500	4,500
55	do	25x100	4,500	4,500
57	do	25x100	4,500	4,500
59	do	25x100	4,500	4,500
61	do	25x100	4,500	4,500
63	do	24.10x100	4,500	4,500
65	do	26x100	4,500	4,500
67	do	20.6x100	3,750	3,750
69	do	29.8x100	5,000	4,500
71	do	25x100	6,000	5,500
73	do	25x70	5,000	5,500
75	d2	25x70	6,000	5,500
62	Charlton st.,	25x75	3,500	4,000
64	do	25x100	4,500	5,000
66	do	25x100	4,500	5,000
68	do	25x100	4,500	5,000
70	do	25x100	4,500	5,000
72	do	25x100	4,500	5,000
74	do	25x100	4,500	5,000
76	do	25x100	4,500	5,000
78	do	25x100	4,500	5,000
80	do	25x100	4,500	5,000
82	do	25x100	4,500	5,000
84	do	24.7x100	5,500	5,500
86	do	25x100	6,000	6,500
308	Hudson st.,	17x50	2,500	2,750
310	do	17x50	2,500	2,750
312	do	17x50	2,500	2,750
314	do	29.8x50	4,000	4,000
316	do	28x50	4,000	4,000
318	do	28x50	4,000	4,250
320	do cor. Vandam st.,	29x50	6,000	6,000
328	do	20.6x24.2	3,000	6,500
330	do	25.3x24	2,000	
332	do	24.3x24	1,500	
334	do	30.4x75.5	6,000	5,500
338	do	25.50.5	4,000	3,750

340	Hudson-street,	.....	25.3x50.5	$4,000	$3,750
342	do	.....	27x50.5	4,520	4,000
344	do	cor. Charlton.st.,	25.3x37.7	5,500	5,500

No. 30.

223	Spring,	cr. Macdougal-st.	42x100	9,000	11,000
225	do		20x100	4,500	5,000
227	do		20x100	4,500	5,000
229	do		20x100	4,500	4,800
231	do		20x100	4,500	4,800
233	do		20x100	4,500	4,800
235	do		20x100	4,500	4,800
237	do		20x100	4,500	4,800
239	do		25x100	6,000	6,000
241	do		20x105	4,500	4,800
243	do		20x100	4,500	4,800
245	do		25x100	6,000	6,000
247	do		25x100	6,000	6,000
249	do		25x105	6,000	6,000
251	do		25x99.5	6,000	6,000
253	do		25x99.5	6,000	6,000
255	do		16x9x58.2	2,000	3,000
257	do		21x58.2	2,500	3,500
259	n.w.cr. Varick-st.,	....	21x58.10	4,000	5,500
6	Vandam-st,	.....	18x100	2,500	2,500
8	do	.....	15x100	2,700	2,700
10	do	.....	25x100	4,500	4,250
12	do	.....	23x100	4,250	4,000
14	do	.....	22.10x100	4,250	4,000
16	do	.....	22.10x100	4,250	4,000
18	do	.....	23x100	4,250	4,000
20	do	.....	23x100	4,250	4,000
22	do	.....	23x100	4,250	4,000
24	do	.....	24.6x150	4,500	4,250
26	do	.....	28.100	5,000	5,000
28	do	.....	21.4x100	4,000	4,000
30	do	.....	25.8x100	4,500	4,500
32	do	.....	24.10x100	4,500	4,500

34	Vandam-st.,	.....	25x100	$4,500	$4,500
36	do	.....	25.6x100	4,500	4,500
38	do	.....	22x100	4,250	4,000
40	do	.....	20x49.6	2,500	2,500
7	do	.....	17x100	3,000	3,000
9	do	.....	25x100	4,500	4,000
11	do	.....	25x100	4,500	4,000
13	do	.....	25x100	4,500	4,000
15	do	.....	25x100	4,500	4,000
17	do	.....	22x100	4,255	3,750
19	do	.....	28x100	5,000	4,250
21	do	.....	25x100	4,500	4,000
23	do	.....	19.8x100	4,000	3,500
25	do	.....	20x100	4,000	3,500
27	do	.....	20x100	4,000	3,500
29	do	.....	20x100	4,000	3,500
31	do	.....	20x100	4,000	3,500
33	do	.....	25x100	4,500	4,250
35	do	.....	25x100	4,500	4,250
37	do	.....	18.6x75	3,000	3,000
39	do	.....	18.10x75	3,000	3,250
41	do	.....	18.10x75	3,000	3,250
*43	do	.....	18.10x74	3,000	3,250
45	do	cr. Varick,	25x75	5,500	5,500
16	Charlton-st.,	.....	18.2x100	3,000	3,500
18	do	.....	18.9x100	3,000	3,500
20	do	.....	18.9x100	3,000	3,500
22	do	.....	18.9x100	3,000	3,500
24	do	.....	18.9x100	3,000	3,500
26	do	.....	25x100	4,500	5,250
28	do	.....	25x100	4,500	5,250
140	Varick-st.,	.....	16.5x64	3,000	3,000
142	do	.....	21.8x64	3,000	3,000
142½ & 144		.....	29x64	5,500	4,500
146	do	.....	19x64	3,250	3,000
148	do	.....	20x64	3,550	3,250
150	do	.....	16.6x43	1,500	2,000

* This No. includes 160 Varick-street.

152	Varick-st.,	.....	16.6x43	$1,500	$2,000
154	do	c. Vandam-st.	16.6x43	2,000	3,000
162	do	.....	24.7x100	5,000	5,000
164	do	.....	20x100	4,400	4,000
166	do	.....	20x66	3,500	3,500
168	do	.....	20x66	3,500	3,900
170	do	.....	20x66	3,500	3,500
172	do	c. Charlton,	20x66	4,500	4,500

No. 31.

345	Hudson-st.,	.....	20.8x50	3,000	4,000
347	do	.....	20.9x50	3,000	4,000
349	do	.....	20x50	3,000	4,000
351	do	.....	25x100	7,000	7,000
353 & 355		.....	25x100	7,000	7,000
357	do	.....	16.8x60	2,500	3,500
359	do	....	16.8x61	2,500	3,500
361	do	s.w.c. King,	16.8x61	4,000	4,500
365	do	....	16.8x60	2,500	3 500
367	do	.....	16.8x60	2,500	3,500
369	do	.....	16.8x60	2,500	3,500
371 & 373		.....	25x100	6,500	6,500
375	do	.....	16.6x60	2,500	3,500
377	do	.....	17x60	2,500	3,500
379	do	....	17x60	2,500	3,500
381	do	.....	17x60	2,500	4,000
383	do	.....	17x60	2,500	4,000
385	H dson, s. w. c. Hammersly,	.....	23x38.6	4,500	4,500
91	Charlton, n. w. c. Hudson-st.,	.....	23x36.5	4,500	4,500
93	do	.....	27.3x38.6	3,000	3,000
85	do	.....	25.2x100	5,000	8,000
97	do	.....	24.9x100	5,000	6,000
99	do	.....	24.10x100	5,000	5,500
101	do	.....	22x100	4,500	5,000
103	do	.....	24.9x100	5,000	5,500
105	do	.....	25x100	5,000	5,500

107	Charlton-st.,	25x100	$5,000	$5,000
109	do	25x100	5,000	5,500
111	do	27x100	5,250	7,500
96	King-street,	16.9x50	2,000	3,000
98	do	19x50	2,000	3,000
100	do	25x100	5,000	3,000
102	do	25x100	5,000	5,000
104	do	25x100	5,000	5,000
106	do	25x100	5,000	5,000
108	do	25x100	5,000	5,000
110	do	25x100	5,000	5,000
112 &114	do	see 571 Greenwich-st.		
97	do	19x100	3,000	4,000
99	do	19.3x100	3,000	3,750
101	do	19.3x100	3,000	3,750
103	do	19.3x100	3,000	3,750
105	do	19.8x100	3,000	3,750
107	do	25x100	5,000	5,000
109	do	25x100	5,000	5,000
111 & 113	do	see 572 Greenwich-st.		
90¼ &90½	Hammersly-st.,	40x100	8,000	8,000
92	do	18x100	3,500	3,500
94	do	18x100	3,500	3,500
96	do	18x100	3,500	3,500
98	do	18x100	3,500	3,500
100	do	18x100	3,500	3,500
102	do	18x100	3,500	3,500
104	do	18x100	3,500	3,500
106	do	19x100	3,500	3,750
108	do	see 586 Greenwich-st.		
557	Greenwich c. Charlton,	25x73	6,000	6,500
561	do	28.6x73	5,000	5,500
563	do	24.6x73	4,500	5,000
565	do	24.10x99.9	5,000	5,500
569	do	25.2x99.9	5,000	5,500
572	do c. Kings,	24.10x99.9	7,000	7,000
573	do	13.9x100		
573½	do	18x100	12,000	12,000
575	do	18x100		

577	Greenwich-st.,	.....	25x100	$5,000	$5,500
581	do	.....	25x100	5,000	5,500
583	do	.....	25x100	5,000	5,500
585	do	.....	25x100	5,000	5,500
587	do	c. Hammersly,.....	25x100	7,000	7,000

No. 32.

171	Varick	c. Charlton,...	21x75	6,000	5,500
173	do	st.,.....	18.3x75	4,500	4,000
175	do	.....	17.3x75	4,000	4,000
177	do	.....	18.6x100	4,250	4,250
179	do	.....	20x100	4,500	4,500
181	do	.....	28.6x100	5,250	5,250
183	do	.....	26.5x100	5,000	5,000
185	do	.....	28x60	4,000	4,000
187	do	s. w. c. King,	22x60	5,000	5,000
189	do	s. w. c. do..	25.4x59	5,250	5,250
191	do	.....	24.8x59	3,500	3,500
193	do	.....	24.9x60	3,500	3,500
195	do	.....	27.7x60	4,000	3,750
197	do	.....	23x60	3,250	3,250
199	do	.....	20x53	3,000	3,000
201	do	.....	20x53	3,000	3,000
203	do	.....	17x53	2,750	2,750
205	do	c. Hammersly,.	17x53	4,000	4,000
67	Charlton-st.	.....	25x100	5,500	5,500
69	do	.....	25x100	5,500	5,500
71	do	.....	25x100	5,500	5,500
73	do	.....	25x100	5,500	5,500
75	do	.....	25x100	5,500	5,500
77	do	.....	25x100	5,500	5,500
79	do	.....	25x100	5,500	5,500
81	do	.....	25x100	5,500	5,500
83	do	.....	25x74	4,500	5,500
85	do	....	25x64	4,000	4,000
87	do	.....	25x64	5,000	4,000
89	do	c. Hudson,	23.6x36	5,000	5,000

68	King-st.,	20x50	$1,750	$1,750
70	do	20x60	1,500	1,500
72	do	25x100	5,000	5,000
74	do	25x100	5,000	5,000
76	do	25x100	5,000	5,000
78	do	25x100	5,000	5,000
80	do	25x100	5,000	5,000
82	do	25x100	5,000	5,000
84	do	25x100	5,000	5,000
86	do	26x100	5,000	5,000
88	do	20x50	2,000	2,000
90	do	20x59	2,500	2,500
69	do	49x100	10,000	9,000
71	do	25x100	5,000	4,000
73	do	25x100	5,000	4,000
79	do	25x100	5,000	4,000
81	do	25.3x100	5,000	4,000
83	do	25x100	5,000	5,000
85	do	25x100	5,250	5,000
87	do	25x50	3,000	2,500
89	do	23.3x50	3,000	3,000
66	Hammersly-st.,	21x100	4,000	4,000
68	do	21x100	4,000	4,000
70	do	25x100	5,000	5,000
72	do	25x100	5,000	5,000
74	do	20x100	4,000	4,000
76	do	20x100	4,000	4,000
78	do	20x100	4,000	4,000
80	do	20x100	4,000	4,000
82	do	25.6x100	5,000	5,000
84	do	25x100	5,000	5,000
86	do	25x100	5,000	5,000
88	do	32x50	4,000	5,000
346	Hudson-st.,	25.6x25.9	2,000	2,000
248	do	14x75	3,000	3,000
354	do	26x100	6,000	6,500
356	do	25.5x100	6,000	6,500
358	do	25x100	6,000	6,500

360	Hudson-st.,	.....	16.8x60	$3,000	$3,500
362	do	.....	16.8x60	3,250	3,500
364	do	cor. King,....	16.8x60	4,500	4,250
366	do	.....	16.8x54.5	4,000	4,000
368	do	.....	16.8x51.6	3,000	3,000
370	do	.....	16.8x51.6	3,000	3,000
372	do	.....	25x100	6,000	6,500
374	do	.....	25x100	6,000	6,500
376	do	.....	16.8x100	3,750	3,750
378	do	.....	16.8x100	3,750	3,750
380	do	.....	16.8x100	3,750	3,750
382	do	.....	25x68	5,000	5,000
384	do	cr.Hammersly	25x68	7,000	7,000

No 33.

15	Charlton-st.,.....		23.4x100	5,000	4,750
17	do	.....	23.4x100	5,000	4,750
19	do	.....	23.4x100	5,000	4,750
21	do	.....	23.4x100	5,000	4,750
25	do	.....	25x100	5,500	5,500
27	do	.....	20x100	4,000	4,200
29	do	.....	20x100	4,000	4,200
31	do	.....	20.2x100	4,000	4,200
33	do	.....	20x100	4,000	4,200
35	do	.....	20x100	4,000	4,200
37	do	.....	25x100	5,500	5,500
39	do	.....	25x100	5,500	5,500
41	do	.....	21.6x100	4,250	4,300
43	do	.....	21.6x100	4,250	4,300
45	do	.....	21.6x100	4,250	4,300
47	do	.....	21.6x100	4,250	4,300
49	do	.....	21.6x100	4,250	4,300
51	do	.....	21.6x75	3,750	3,750
53	do	.....	21.5x72	4,000	4,000
55	do	cr. Varick,...	25x37	3,600	3,500
28	King-street,	.....	22x100	4,000	4,000
30	do	.....	22.10x100	4,000	4,000
32	do	.....	25x100	4,500	4,500

34	King-street,	25x100	$4,500	$4,500
36	do	20x100	3,500	3,500
38	do	20x100	3,500	3,500
40	do	20x100	3,500	3,500
42	do	20x100	3,500	3,500
44	do	20x100	3,500	3,500
46	do	25x100	4,500	4,500
48	do	25x100	4,500	4,500
50	do	25x100	4,500	4,500
52	do	20.10x100	3,500	3,500
54	do	20.10x100	2,500	3,500
56	do	20.10x100	3,500	3,500
58	do	20.10x100	3,500	3,500
60	do	20.10x100	3,500	3,500
62	do	20.10x75	3,000	3,000
64	do	25x75	4,000	4,000
27	do	25.4x100	4,500	4,500
29	do	28.6x100	5,000	5,000
31	do	21.6x100	3,500	3,500
33	do	23x100	4,000	4,000
35	do	27.6x100	5,000	5,000
37	do	27x100	5,000	5,000
39	do	23.6x100	4,000	4,000
41	do	23.6x100	4,000	4,000
43	do	25x100	4,500	4,500
45	do	25x100	4,500	4,500
47	do	25x100	4,500	4,500
49	do	25x100	4,500	4,500
51	do	24.10x100	4,500	4,500
53	do	25x100	4,500	4,500
55	do	25x75	4,500	4,500
28	Hammersly street,	21.9x100	4,500	4,000
30	do	25x100	5,000	4,000
32	do	18.9x100	3,750	3,750
34	do	18.9x100	3,750	3,750
36	do	18.9x100	3,750	3,750
36½	do	18.9x100	3,750	3,750
38	do	24.10x100	5,000	5,000

40	Hammersly-street, ...		25x100	5,000	5,000
42	do	....	25x100	5,000	5,000
44	do	....	25x100	5,000	5,000
46	do	....	20x100	4,000	4,000
48	do	....	20x100	4,000	4,000
50	do	....	20x100	4,000	4,000
52	do	....	20x100	4,000	4,000
54	do	....	20x100	4,000	4,000
56	do	....	25x100	5,000	5,000
58	do	....	25.8x100	5,000	5,000
60	do	....	20x58	3,000	3,000
176	Varick-street, ...	...	38x25	2,000	2,000
178 & 180	do	.....	25x68	3,500	3,500
182	do	.....	25x75	3,750	3,750
184	do	..... .	30.4x25	1,700	1,700
186	do c. King,	....	44.6x25	3,750	3,750
190	do	.....	16.5x50.6	3,000	2,500
192	do	.....	19.6x50.5	2,250	2,250
192½	do	.....	19.7x50.5	2,000	2,000
192¼	do	.....	19.5x50	2,000	2,000
194	do	.....	25.6x75	4,000	4,000
196	do	.....	21.9x75	3,250	3,250
198	do	.....	20.5x75	3,000	3,000
200	do	.....	19.9x59	2,250	2,250
202	do	.....	20x54.6	2,250	2,250
204	do c.Hammersly		17.9x54.6	3,750	3,750

No. 34.

387	Hudson-st.,n.w. c. Hammersly,....		25x70	6,500	6,500
389	do	.....	25x100	7,000	7,000
391	do	.....	25x100	7,000	7,000
393	do	.....	25x100	7,000	7,000
395	do	.....	25x100	7,000	7,000
397	do	.....	22x100	6,000	6,000
399	do	.....	18x54	3,000	3,000
401	do	.....	18x54	3,000	3,000
403	do s.w.cClarkson		17x54	4,500	4,500
405	do n. w. c. do		25x60	6,000	5,750

407	Hudson-street,	.....	25x60	$5,000	$5,000
409	do	.....	25x100	6,000	6,500
411	do	.....	21x100	5,000	5,000
413	do	.....	29x100	7,000	7,250
415	do	.....	25x100	6,000	6,500
417	do	.....	16.8x71	3,000	3,500
419	do	.....	16.8x71	3,500	3,500
421	do	s. w. c. Leroy,	16.8x71	5,000	4,500
93	Hammersly-street,	....	30.25	1,500	2,000
95	do	....	25x100	6,000	5,750
97	do	....	25x100	6,000	5,750
99	do	....	25x100	6,000	5,750
101	do	....	25x100	6,000	5,750
103	do	....	25x100	6,000	5,750
36	Clarkson-street,	.....	25x100	6,250	6,000
38	do	.....	25x100	6,000	5,750
40	do	.....	25x100	6,000	5,750
42	do	.....	25x100	6,000	5,750
44	do	.....	25x100	6,000	5,750
46	do	.....	19.6x60	3,500	3,500
48	do	.....	19.6x57	3,500	3,500
50	do	.....	19.6x55	3,500	3,500
52	do	.....	19.6x52	3,500	3,500
45	do	s.e.c.Greenwich	19.6x51	4,000	3,570
35	do	.....	21x67	3,500	3,500
37	do	.....	21x67	3,500	3,500
39	do	.....	25x100	6,000	5,750
41	do	.....	25x100	6,000	5,750
108	Leroy-st.,	.....	25x100	5,000	5,500
585	Greenwich-st, n. e. c. Hammersly,		29x67	6,000	6,500
587	do	.....	24.5x63.9	4,500	5,000
589	do	.....	25x82.9	5,000	5,500
603	do	.....	15.4x24	1,000	800
605	do	.....	15.4x24	1,000	800
607	do	.....	25x111	6,500	6,500
609	do	.....	25.109	6,500	6,500
611	do	.....	25x107	6,500	6,500

No. 35,

207	Varick-st. n. w. c. Hammersly,	16.8x60	$4,000	$4,000
209	do	16.8x60	2,750	2,750
211	do	16.8x60	2,500	2,500
213	do	16.9x100	4,000	3,750
215	do	20.9x100	4,000	3,750
217	do	20.3x100	4,000	3,750
219	do	17.3x100	3,250	3,250
221	do	25x100	5,000	5,000
223	do	25x100	5,000	5,000
225	do s.w.cor.Clarkson,	25x100	6,500	6,500
47	Hammersly-st., ...	25x100	6,500	6,500
49	do	25x100	5,000	5,000
51	do	25x100	5,000	5,000
53	do	25x100	5,000	5,000
55	do	26x100	5,000	5,000
57	do	25x100	5,000	5,000
59	do	25x100	5,000	5,000
61	do	25x100	5,000	5,000
386	Hudson-st. cor. Hammersly,	18x59.10	4,250	4,500
388	do	18x59.10	3,750	3,750
390	do	18x61	3,750	3,750
392	do	21x61	4,250	4,250
394	do	25x100	6,500	7,000
398	do	25x100	6,500	7,000
8	Clarkson-st., ...	25x100	5,000	5,000
10	do	25x100	5,000	5,000
12	do	25x100	5,000	5,000
14	do	25x100	5,000	5,000
16	do	25x100	5,000	5,000
18	do	25x100	5,000	5,000
20	do	25x100	5,500	5,500
22	do	25x100	5,750	5,750
On Hudson-st., 8 lots, the front from Clarkson to Leroy-st., each, ...		26x100	56,000	56,000

24 lots on Clarkson & Leroy sts., each,.....		25x104	$24,250	$121,700
		No. 36.		
435	Hudson-st.,.....	15.8x63.6	3,500	3,500
437	do	25x63.6	5,500	5,500
439	do	12.6x57	2,500	2,500
441	do	12.6x57	2,500	2,500
442	do s. w. c. Morton,.....	25x75	6,000	5,750
447	do n.w.c.Morton	25x75	7,000	7,000
449	do	25x75	6,000	6,000
451	do	25x75	6,000	6,000
455	do	25x100	6,500	6,500
457	do	25x200	6,500	6,500
76	Morton-st., ...	25x100	5,000	5,000
78	do	25x100	5,000	5,000
80	do	25x100	5,000	5,000
82	do	22.8x78	4,250	4,250
84	do	20x77	4,000	4,000
86	do	20x77	4,000	4,000
90	do c.Greenwich,	20x77	5,500	5,500
73	do	25x75	4,250	4,250
75	Morton st.,.....	24x100	4,800	4,800
77	do	24x100	4,800	4,800
79	do	24x100	4,800	4,800
80	do c.Greenwich,	20x50.2	4,500	4,500
171	Barrow-st., ...	25x100	5,000	5,000
163	do	25x100	5,000	5,000
627	Greenwich-st., ...	25x109	6,000	6,000
633	do	25.1x95.9	6,000	5,750
635	do	25.1x92	6,000	5,250
637	do	25.1x114	6,000	6,000
639	do	25.1x110	6,000	6,000
641	do s.w.c.Barrow,	50.2x23	5,000	4,750
		No. 37		
51	Morton-street, ...	34x100	6,000	6,000
59	do	25x100	5,000	5,000

61	Morton-street,.....	15x100	5,000	5,000
63	do	25x100	5,000	5,000
145	Barrow-street,.....	25x100	5,000	5,000
149	do	25x100	5,500	5,500
144	do	25x100	5,000	5,000
146	do	25x100	5,000	5,000
148	do	25x100	5,000	5,000
150	do	25x100	5,500	5,500
10	Grove-street, ...	18x73.6	3,000	2,750
8	do	18x73.6	3,000	2,750
6	do	18x73.6	3,000	2,750
4	do	20x67	3,000	2,750
438	Hudson, n. e. c. Morton,	25x60	6,000	2,750
440	do	12.6x60	2,250	2,250
442	do	12.6x60	2,250	2,250
444	do	12.6x60	2,250	2,250
446	do	12.6x60	2,250	2,250
448	do	12.6x160	2,750	2,750
450	do	12.7x160	2,750	2,750
452	do	12.6x100	2,750	2,750
454	do	12.6x100	2,750	2,750
456	do	25x100	6,000	6,000
458	do	12.6x100	2,750	2,750
460	do	12.6x100	2,750	2,750
462	do s. e. c. Barrow,	25x100	7,500	7,500
464	do n. e. c. Barrow,	24.5x100	7,500	7,500
466	do	12.3x100	2,750	2,750
468	do	12.3x100	2,750	2,750
468½	do	12.3x100	2,750	2,750
470	do	12.3x100	2,750	2,750
472	do	12.3x100	2,750	2,750
474	do	12.3x100	2,750	2,750
476	do	12.2x100	2,750	2,750
478	do	12.2x100	2,750	2,750
480	do	24.6x100	6,000	6,000
482	do	24.6x100	6,000	6,000
		No. 38.		
636	Greenwich, n.w.c. Morton	25.1x60	5,500	5,500
638	Greenwich-st.,.....	25.1x104	6,000	6,000

640	Greenwich-st.,	25.1x105.6	6,000	6,000
642	do	25.1x107	6,000	6,000
644	do	16.9x84.6	3,500	3,500
646	do	16.9x85.6	3,500	3,500
650	do	16.9x87.6	3,500	3,500
652	do	16.9x88.6	3,750	3,750
654	do s.w.c. Barrow.	16.8x89.6	5,000	5,000
656	do n.w.c. do	26x80	6,500	6,000
658	do	22x80	4,500	4,500
660	do	19x80	3,750	3,750
662	do	19x100	4,000	4,000
664	do	19x100	4,000	4,000
666	do	19x100	4,000	4,000
668	do	19x100	4,000	4,000
670	Greenwich-st.,	19x100	4,000	4,000
672	do	17.8x.100	3,500	3,500
617	Wash'n-st, n.e.c. Leroy,	25x60	5,500	5,000
619	do	25x60	4,000	5,000
621	do	25x90	6,000	6,000
623	do	25x90	6,000	6,000
625	do	25x90	6,000	6,000
657	do	26x90	6,000	6,000
531	do s. e. cor. Barrow,	25x90	8,000	4,500
633	do n.e. cor. Barrow,	26x65	5,750	5,250
641	do	26x106.10	6,000	6,000
643	do	25x108	6,000	6,000
156	Christopher-st., s. e. cor. Warren-st.	25x44.8	6,000	5,500
154	do	25x76	5,500	6,000
152	do	25x84	5,000	5,500
150	do	25x89.6	5,000	5,500
148	do	25x70	5,000	5,000
146	do	25x79	5,000	5,000
144	do	22.8x85	4,500	4,750

No. 39.

465	Hudson-street n. e. cor. Barrow-st.,	19.11x83	6,000	6,000

467	Hudson-st.,	20x83	$4,750	$4,750
469	do	20x83	4,750	4,750
487	do with rear equal to	36x125 / 36x175	17,000	17,000
489	do	20x75	4,750	4,750
493	do	20x75	4,750	4,750
495	do	20x76	5,000	5,000
497	do fnt on Christop'r,	20x77	6,000	6,000
499	do s. w. cor. do	23x67	4,500	3,500
160	Barrow-street,	20x80	3,750	3,750
162	do	20x80	3,750	3,750
164	do	20x80	3,750	3,750
166	do	20x80	3,760	3,750
643	Greenwich-st., n. e. cor. Barrow-st.	32x75	5,500	5,500
645	do	22x75	4,000	4,000
647	do	22x75	4,000	4,000
649	do	22x75	4,000	4,000
651	do	20x75	3,750	4,000
653	do	20x75	3,750	3,750
655	do	20x75	3,750	3,750
657	do	20x75	3,750	3,850
661	do	20x75	3,750	3,750
665	do	20x75	3,750	3,750
667	do	20x75	3,750	3,750
669	do	20x75	3,750	3,750
671	do	20x75	3,750	3,750
673	do	20x75	4,000	3,750
675	do	20x75	4,250	4,000
677	do s.e.cor.Christo'r	15x60.3	6,000	5,500
140	Christopher-street,	19x60	3,000	3,000
138	do	19x60	3,000	3,000
136	do	19x60	3,000	3,000
134	do	22x60	3,250	3,250
	Total,		$5,974,600	$5,956,130

Ely's.	Dodd's.
$6,108,150 000	$6,031,350 00

COMMUNICATION

Of the Corporation of Trinity Church in the city of New-York, to the Honorable Mark Spencer, James Noxon and J. H. Ramsey, a Committee of the Senate of the State of New-York.

To the Honorable Committee of the Senate:

The rector, church-wardens and vestrymen of Trinity Church in the city of New-York, beg leave to make the following reply to a note of the committee bearing date on the 2d day of December, 1856, asking for certain information touching the matters of the report made by this body to the honorable Senate on the 15th day of February, 1856.

The resolutions of the Senate, to which that report was a response, required the number and names of the persons entitled, under an act to alter the name of the corporation of Trinity Church in New-York, and for other purposes, passed January 25th, 1814, to vote at the annual elections for church-wardens and vestrymen of the present corporation of Trinity Church, specifying those who vote as communicants, and those who vote as pew-holders in the said church, and the names of the persons so entitled, who did actually vote at each of the three last elections held for the choice of church-wardens and vestrymen of said corporation. In the report above referred to, this corporation designedly refrained from giving the *names*, but furnished the *number* of the persons entitled to vote, and of the persons who did actually vote at the elections referred to in the resolutions of the Senate. The vestry took this course because they supposed that the number of the corporators of Trinity Church, either exercising or refraining from the exercise of the privilege of voting at elections, might be material to some point that the Senate might wish to determine, but that the names of such persons could not be material; because the vestry were not

aware that the liberty to inspect a list of such names had ever been refused to any corporator, because the vestry believed that the honorable Senate, upon receiving the report, would not, at least without evidence of such refusal, exert its authority for the enforcement of a mere private right, and much less for the obtaining information of no public importance, which might be sought by individuals who had themselves no legal interest to entitle them to it; and because the vestry being aware that there existed no controversy or disagreement among the members of this corporation, were apprehensive that the publication of the names asked for might be used as the means to enable persons not corporators to attempt to influence and interfere with persons who were corporators, and to create dissensions, where now was perfect accord and harmony. The vestry did not, and do not now suppose or intend to intimate that the honorable Senate intended anything more than to procure information deemed by them material for that body to know, to be used only as the means of guiding their discretion in the performance of some legislative act. But parties, not members of the Senate, who by their representations have induced the proposal of the resolutions passed by that body, may have been actuated by motives and designs of which the honorable Senate is not cognizant; but as the committee has now reiterated the inquiry of the Senate, the vestry do not consider their objections to making a reply of sufficient importance, to induce them to withhold making answer; they therefore annex Schedule A, showing the names of corporators who are communicants and not pew-holders, and of those who are pew-holders; and also the names of the voters at the several annual elections mentioned in the report to the Senate. These lists are believed to be accurate.

For the more full and satisfactory statement of the affairs of this corporation, in their late report to the Senate, the vestry stated amongst other things, the amount of the bonds and mortgages held by the corporation on 1st May, 1855, a statement not called for by the resolutions of the Senate. It was not then deemed material to include in such statement, bonds and mortgages of churches, because they are not productive of income, and although the vestry possess the *power* to foreclose them,

they are in reality only held to secure to the permanent use of the protestant episcopal church of the United States, the church buildings and property, upon the security of which this body has loaned money to other church corporations, for their aid and support. The vestry believe that no measures have been taken to foreclose any of such mortgages or to collect interest upon them, although the interest has been remitted upon one or more of such mortgages, when the lien was about expiring by lapse of time, upon an agreement being made to revive such lien. A schedule of such mortgages marked B, is hereto annexed, showing in respect to each mortgage its date, the names of the mortgagors, and the amount secured thereby, and unpaid. The vestry also annex a schedule C, showing the same particulars of certain productive mortgages, received since 1st May, 1855. Since that date the principal sum of $31,300 has been realized from the payment of mortgages then held by the corporation. These two schedules, B and C, compehend all the securities deemed of any value, which are now held by this corporation, and not comprised in their last report. The vestry desire to make the following explanation in regard to the inadvertent omission in their former report, to state amongst the real estate held by this corporation, their interest in St. John's Park, on Hudson Square. The ground comprehended in this square formerly belonged to the corporation of Trinity church, as well as the lots of land fronting on the streets opposite the same, and had been laid out to the intent that it should be and remain an ornamental square or park for the common resort, recreation and enjoyment of the persons who might purchase or might be or become lessees of lots fronting towards the same, and of their families under suitable provisions and conditions for the support and maintenance of such square, by such owners. Subsequently the church sold all the lots fronting the square, excepting only the land now occupied by St. John's chapel and the parsonage adjoining the same; and on the twenty-second day of May, 1827, the church executed, with the adjoining owners, a declaration of trust by which it was agreed that this corporation should and would forever hold and stand seised of the square, upon trust to preserve and continue the same forever hereafter as a private

ornamental park or square, for the common resort and recreation of all the adjoining owners, their heirs and assigns and of their tenants; with the provision that the same should be maintained, managed and controlled by the adjacent owners, and that all taxes, assessments and charges upon the same should be paid by them; the Church always to pay its part of all expenses in proportion to its ownership of adjacent land. This declaration of trust however contained a provision that if at any time thereafter this corporation and so many of the adjacent owners as should together hold and possess two-thirds of the lots fronting the square, should, by writing under their respective seals, mutually agree upon any other disposition to be made of said park, then it should be lawful for this corporation, in their discretion to dispose of, sell and convey the said park or square in such manner and for such purposes as should or might be expressed in such writing; it being understood and expressly agreed that in case of such disposition all the adjacent owners (including the church) should severally participate in and enjoy the benefits thence resulting, according to the actual extent in front of the land which they might severally own fronting the square.

At the time of preparing the last report by this body to the Senate, so long time had elapsed since a resort for any purpose had been had to the above-mentioned declaration of trust, that it was not remembered that the corporation retained any beneficial property in the square, which might, under certain contingencies, prove of large value, or indeed, of any value. After, however, the report had been transmitted to the Senate, application to this vestry was made by more than two-thirds of the adjoining proprietors, asking that this corporation would assent to a sale of the whole Square to the government of the United States, for the erection thereupon of public buildings; and after much hesitation, and after great importunity by the adjacent owners, the vestry declared, by resolution, that they would assent to such sale, provided it were made at such a price as that the proportion of the proceeds to come to the church should amount to the sum of $400,000. This, and this only, was the whole action of the vestry, in relation to the subject. Considerations of the public advantage, by keeping the grounds open as

an ornamental square, and of the apprehended injurious effect upon the numbers attending St. John's chapel, were the cause of much doubt whether this body ought to yield to the wish of the owners, and determine the vestry not to consent to a sale for any price except a very large one; the naming of which was only reached after much discussion and opposition, and probably was only assented to by several, under the persuasion that a sale for such price could not be made.

The contingency under which the interest of Trinity church in Hudson's park would be productive of value, was never expected to arrive, and as the result shows, has not occurred and may never occur. The vestry have never included this property in any of their reports to the Legislature The committee of the Senate, in their above-mentioned note, request that this body will set forth a schedule, stating the real value of each lot or parcel of land held by this corporation, irrespective of the leases thereon. The vestry, in their last, as well as in all previous reports on this subject, furnished the value of the real estate referred to, as estimated for purposes of taxation, by sworn officers of the city. This estimate was expressly stated, in the last report, to be the valuation therein reported, and was made the basis of all the calculations therein contained. Doubtless, many of the lots comprised in the schedules annexed to that report, are worth more than is therein set down, and many less. The vestry did not intend to depreciate the value of the property of the corporation, but merely to give the only accessible estimate, expecting it to receive such credit, and such credit only, to which it might be justly entitled. But statements upon such questions are mere matters of opinion; and the vestry are unable to agree upon any estimate of their own; nor do they think it right that they should discredit an official valuation of their real estate upon the basis of which the tenants are bound to pay the taxes and assessments. The vestry regret, that for these reasons they are unable to give any further answer on this point than that contained in their report.

WM. E. DUNSCOMB,
Comptroller.

EXHIBIT J.

SCHEDULE A.

Names of Corporators who are Communicants and not Pew-holders:

William H. Hobart, Cyrus Curtiss, John A. Dix, Abel T. Anderson, John H. Andrews, Horace B. Alexander, Benjamin B. Barnes, Anthony Barclay, Morton Bullus, Benjamin I. Barnes, Mathew Campbell, James N. Croft, Thomas A. Demilt, John Duncan, James B. Douglass, Orlando P. Dorman, William Berrian, Edward Y. Higbee, Benjamin I. Haight, John H. Hobart, Sullivan H. Weston, Francis Vinton, Frederick Ogilby, Morgan Dix, John F. Young, Henry Weld, Thomas Maslin, John Dugan, Edward Hodges, William H. Walter, Michael Erben, Dayton Hobart, Joseph T. Harris, John Hart, Alexander C. Hinton, Samuel G. Huntington, —— Hodge, Nelson Jarvis, James Knight, —— Kissam, Adam D. Livingston, Eugene Ledentre, Nathaniel F. Moore, John A. Mitchell, John G. Mott, Walter T. Marvin, John P. Miller, William P. Morgan, John Maunder, James Neeves, Thomas W. Ogden, John H. Oakley, Alfred Ogden, Charles H. Ogden, Jehiel I. Post, George Starr, Ogden Southmayd, Shearjushut Spooner, William W. Voorhis, John L. Vandervoort, Thomas Walke, Edward Windust, James Btown, William Bartlett, Jeremiah L. Clark, James Carruthers, John C. Clarkson, —— Clarkson, Smith Clift, William G. Campbell, Henry F. Drisler, —— Goddard, William A. Guest, A. M. Hart, Thomas Halen, Lewis B. Henry, Charles Hickman, Jeremiah F. Jenkins, Mathias I. Miller, George C. Morgan, Pliny S. Mills, George C. Pennell, Horace Reid, John P. Ritter, John Trenor, Timothy Tredwell, James A. Underhill, Alfred Underhill, Ozier B. Wilson, Alexander Walker, C. B. Willson, I. B. Wilson.—Number, 92.

Names of Corporators as Pew-holders.

William Sharpe, Alfred Wagstaff, George W. Welles, Thomas Warner, Edward Neufville, Richard Ebbets, Samuel S. Dunscomb, Herman Leroy, Ebenezer Irving, I. C. Corp, William Corp, Robert Cambridge Livingston, William H. Harrison, William Van Hook, Marcus F. Hodges, David Lydig, Francis R. Tillou, Augustus Hammet, George G. Sickles, Joseph Drake, William G. Haydock, Louis Loutrell, John B. Schenelzel, Alexander McDonald, Ephriam Treadwell, William B. Ballow, Philip Embury, George P. Cammann, John Webb, Robert Hyslop, John D. Willams, James F Depeyster, Henry Youngs, Christopher Heiser, John H. Howland, Samuel V. Hoffman, Walter R. Jones, Henry Suydam, Peter M. Suydam, Calvin Durand, William C. Heyward, Anthony J. Bleeker, Peter Goelet, Laughton Osborn, Anthony B. McDonald, Adam Norrie, William C. Dusenbury, Clermont Livingston, W. Q. Morton, H. Morton, Joseph D. Beers, Lewis Curtis, John A. Willink, Herman Thorne, John Lloyd, James Jones, D. P. Campbell, William H. Winthrop, William Kemble, John A. King, Charles King, Robert S. Hone, T. W. Canning Moore, Thomas B. Cumming, William C. Anderson, George Jones, Lewis C. Hamersly, Thomas W. Ludlow, David Clarkson, Thomas Bolton, Gulian C. Verplanck, Alexander Watts, John P. Nesmith, Richard D. Van Wagenen, John Newbould, John Warren, John J. Boyd, Francis Cottenet, John D. Ogden, H. C. De Rham, Thomas D. Moore, Robert Dumont, Christopher Milderberger, John McVickar, Edmund Elmendorf, Gabriel Winter, Cornelius Oakley, Joseph Batten, Charles Brown, David D. Lyon, Hazleton Walkley, Edward P. Cooke, Frederick Pentz, John Pentz, George Bell, Richard H. Ogden, John David Wolfe, Nicholas S. Ludlam, Henry J. Seaman, Alexander Gotheal, John Strang, John A. Talman, Abraham R. Lawrence, Christopher Wolfe, George T. Strong, William H. Shipman, James A. Moore, Joshua Jones, Humphrey Rickertson, Nathaniel Ferris, Thomas Gibson, James Warren, Francis V. Many, Charles H. Clayton, John H. Contoit, Theodore F. Brett, Richard M. Lawrence, Jacob S. Platt, David Rogers, John R. Livingston, John Q Jones, John P. Mumford, Edward J. Innes,

Joseph P. Pirsson, William H. Falls, Charles W. Sanford, John Alstyne, Albert G. Thorp, Archibald G. Rogers, Alfred Ashfield, William H. Priest, Charles N. S. Rowland, James Pirsson, Timothy T. Kissam, Henry Pitcher, Martin Hoffman, Thomas C. Taylor, William Watson, William E. Dunscomb, Joseph Hough, Thomas H. Thomas, John Ridley, Richard E. Mount, Alpheus Banning, George N. Stebbins, David Reid, Charles Anthon, Talman Booth, John Langdon, E. W. Candee, Thomas Holyoke, John B. Miller, George A. Baker, John Leconte, John B. Pell, B. Aycrigg, Frederick R. Spencer, Peter Erben, John S. Smith, Theodore Peck, William G. Hammond, Joseph Willoughby, J. E. Capert, Thomas R. Ackly, John Horspool, David Cotheal, Thomas Gibbs, James Hillyer, Eli White, William Lowerre, Albert Journeay, Jr , James Wallace, Thomas N. Stanford, C. B. Ostrander, Edward E. Sanderson, William Moore, James Barrow, George Bruce, Levinus Clarkson, Jr., George Brooks, Samuel T. Skidmore, Clement C. Moore, John R. McComb, Selah Van Duzer, James Benkard, Daniel M. Frey, James C. Parker, Thomas C. Winthrop, Charles McAuly, Samuel Burrell, Richard Lawrence, Albert Janeway, Jonathan J. Coddington, Cornelius Purdy, William McCall, Thomas C. Butler, William Kemble, John Atwill, Edward Dickson, John Duncan, John Johnson, John Barker, John C. Hamilton, John C. Smith, James Campbell, Lindley M. Hoffman, Thomas Maslin, Sidney Mason, Philip Burrell, Alexander Meaken, James W. Bleeker, George Innes, George M. Ogden, Lyman Denison, Thomas W. Ludlow, Richard M. Harison, John H. Conner, Joseph R. Bleeker, George R. I. Bowdoin, Thomas Brown, Louis L Platt.—Number, 221.

The Names of the Voters at the Annual Election for Church Wardens and Vestrymen of Trinity Church in the City of New-York, in each of the years next mentioned, were respectively as follows :

In the year 1846.

James F. DePeyster, Peter Erben, E. W. Butler, Richard Whitey, Joseph Dacuna, William A. Stichner, A. L. Underhill, L. W. Noxton, Francis V. Many, Joseph D. Beers, Elam Bliss, Robert Hyslop, William Van Hook, Samuel Whitney, John A. Willink, Joseph Skillman, William H. Harrison, John Webb,

Charles Burdett, Edward W. Laight, John LeMaire, Henry Cotheal, Archibald G. Rogers, Peter Embury, John Battin, Talbot Pirsson, John E. Isley, Philip Hone, William Johnson, Thomas Bolton, Thomas B. Cuming, George Jones, John T. Atkinson, Gulian C. Verplanck, Garret Storm, Nicholas S. Ludlam, Thomas H. Thomas, Mr.——Lee, Thomas Crow, John P. Mumford, Adam Tredwell, James A. Sparks, John H. Whittaker, John H. Swift, Theodore M. Tuttle, Thomas D. Moore, Cornelius Oakley, Humphrey D. Ricketson, Edmund Morewood, Alexander L. McDonald, George Brooks, Henry Youngs, Abraham Warner, Elias G. Drake, Thomas C. Butler, Joseph P. Pirsson, Jr., H. D. Neal, James J. Jones, William H. Hobart. Moses O. Curtis, Benjamin W. Rogers, Anthony B. McDonald, Richard Sill, Thomas L. Clark, William W. L. Voorhis, Philip Henry, Nelson Jarvis, William Barnes, William E. Dunscomb, Peter A. Mesier, Charles W. Hackley, Alexander J. Cotheal, Theodore Phillips, Robert R. Greele, Anthony J. Bleecker, David Lyon, Charles N. S. Rowland, David B. Ogden, Alpheus Banning, Edward T. Higbee, Charles Osborne, Edward Hodges, Jeremiah L. Clark, Nathaniel F. Moore, William Kemble, John W. Pirsson, William Moore, Thomas B. C. Berrian, David Cotheal, Francis R. Tillou, Thomas Brown, Samuel G. Raymond, Stuart F. Randolph, John Morrison, James Barron, William Berrian, Theophilus Peck.—Number 97.

Voters for the year 1847.

Cornelius Oakley, A. B. McDonald, J. P. Atkinson, William H. Morrison, Gulian C. Verplanck, William Berrian, Dr. Edward Hodges, Thomas Warner, M. J. Miller, Joseph D. Beers, Anthony J. Bleecker, Lewis Curtis, Philip Hone, Garret Storm, David B. Ogden, Humphrey Ricketson, Thomas W. Ogden, William W. Voorhis, Adam Tredwell, William E. Dunscomb, Thomas L. Clark, John H. Tallman, William Barnes, John P. Mumford, David D. Lyon, Philip Henry, Nelson Jarvis, Anthony L. Underhill, Henry Cotheal, T. T. Kissam, Alexander J. Cotheal, Thomas C. Butler, William Morris, T. S. Brown, Samuel G. Raymond, Alexander L. McDonald, Henry Youngs, James Barron, James C. Hooker, Robert Hyslop, John Morrison, Charles Osborn David Cotheal.—Number 43.

Voters for the Year 1848.

Rev. Edward T. Higbee, Cornelius Oakley, David B. Ogden, Rev. William Berrian, William H. Harison, Edward Hodges, Gulian C. Verplanck, Matthias G. Miller, David D. Lyon, Dayton Hobart, A. B. McDonald, John R. Livingston, jr., Rev. Martin P. Parks, Adam Tredwell, William E. Dunscomb, Rev. William Morris, William W. L. Voorhis, Edward W. Laight, William Barnes, Thomas L. Clark, Philip Henry, William H. Priest, Alexander I. Cotheal, Richard E. Mount, Thomas C. Butler, Joseph P. Pirsson, John W. Pirsson, Thomas B. C. Berrian, Alexander L. McDonald, Samuel T. Skidmore, Charles Osborn, John Webb, Henry Youngs, Samuel G. Raymond, John C. Ball, David Cotheal, Robert Hyslop. *Number*, 37.

Voters for the Year 1849.

William W. Bours, John R. Livingston, jr., William H. Harison, Anthony J. Bleecker, Edward T. Higbee, Gulian C. Verplanck, John Lloyd, Edward Hodges, Philip Hone, David B. Ogden, George C. Morgan, Dayton Hobart, A. B. McDonald, H. Morton, David D. Lyon, E. M. Peck, George Starr, John Alstyne, John W. Pirsson, Richard Mount, Cornelius Oakley, Edward W. Laight, Joseph Battin, Theodore M. Tuthill, William H. Walter, Alexander J. Cotheal, William W. L. Voorhies, Thomas L. Clark, Edwin B. Clayton, Adam Tredwell, Alpheus Banning, Nicholas S. Ludlam, William E. Dunscomb, Thomas W. Ogden, David Cotheal, William Moore, Alexander L. McDonald, Samuel T. Skidmore, Peter Erben, James Campbell, Elias G. Drake, Joseph Skillman, sen., Thomas Brown, Henry Youngs, Samuel G. Raymond, Philip Henry, Peter Embury, Abraham B. Skillman, John Scoles, John Morgan, John C. Zimmerman, James Barrow, Robert Hyslop, George R. J. Bowdoin. *Number*, 54.

Voters for the Year 1850.

John R. Livingston, jr., William Berrian, Rev. Edward T. Higbee, William H. Harison, Samuel S. Dunscomb, Wm. Cox Dusenbury, Gulian C. Verplanck, Matthias I Miller, David D. Lyon, Cornelius Oakley, Adam Tredwell, William E. Dunscomb, Thomas L. Clark, Edward W. Laight, William H. Walter, E. B.

Clayton, Thomas C. Butler, Alexander L. McDonald, Samuel T. Skidmore, Philip Henry, Henry Youngs H. D. Neil, Thomas Brown. *Number*, 23.

Voters for the Year 1851.

Jeremiah F. Jenkins, Franklin Babbett, Anthony J. Bleecker, Edward T. Higbee, William H. Harrison, William Berrian, John R. Livingston, Jr., Samuel S. Dunscomb, John P. Nesmith, George T. Strong, Archibald G. Rogers, John Lloyd, Cyrus Curtiss, David D. Lyon, John I. Boyd, Matthew I. Miller, William Corp, John C. Corp, Dayton Hobart, George C. Morgan, Gulian C. Verplanck, Edward Hodges, George Jones, John H. Brewster, William S. Ludlam, Edward W. Laight, William E. Dunscomb, Cornelius Oakley, Henry Weld, John P. Mumford, Thomas L. Clark, William H. Walter, James Neeves, Richard H. Ogden, Charles N. S. Rowland, Thomas W. Ogden, Nelson Jarvis, Nicholas S. Ludlam, Edwin B. Clayton, Henry I Seaman, William H. Falls, Alpheus Banning, John Alstyne, Samuel Bell, John H. Tallman, Nathaniel F. Moore, Thomas C. Butler, Morgan Dix, Samuel T. Skidmore, Alexander L. McDonald, James Campbell, James Barrow, Philip Henry, Thomas C. Winthrop, Jonathan I. Coddington, James Wallace, Thomas Brown, John L. Vanderuoort, Henry D. Neal, Henry Youngs, Thomas Maslin, Abraham B. Skillman, Joseph Skillman, Sen., Stuart F. Randolph, David Cotheal. *Number*, 65.

Voters for the Year 1852.

John R. Livingston, Samuel S. Dunscomb, Edward Hodges, George Templeton Strong, Cyrus Curtiss, David D. Lyon, Peter Erben, Wm. H. Harison, Wm. Berrian, Anthony J. Bleecker, Joseph Hough, A. B. McDonald, Edwin B. Clayton, Henry Weld, Corlelins Oakley, Thomas L. Clark, William E. Dunscomb, William H. Falls, Nelson Jarvis, George P. Cammann, Thomas C. Butler, Philip Henry, Morgan Dix, Henry Youngs, Alex. L. McDonald, Samuel T. Skidmore, Thomas Maslin, James Barron, William Moore. *Number*, 29.

Voters for the Year 1853.

J. S. B. Hodges, Jeremiah Jenkins, R. William Berrian, John R. Livingston, William H. Harison, Anthony J. Bleecker, Thomas

F. Frank, David Lyon, Peter Erben, Daniel Sheldon, George C Morgan, William Penn Morgan, John I. Boyd, John P. Nesmith, Edward Hodges, Ferdinand Lawrence, Cyrus Curtiss, Joseph D. Beers, John H. Oley, John F. Miller, Samuel S. Dunscomb, James Brown, Anthony B. McDonald, Matthias I. Miller, Lewis Philips, James F. Otis, Robert Cambridge Livingston, George I. Rogers, Charles N. S. Rowland, Edward N. Peck, Archibald Rogers, John A. Mitchell, Edward N. Rogers, Rev. Benj. I. Haight, Thomas L. Clark, Thomas A. Demilt, Edward Windust, James Nevis, Ozier B. Wilson, Nicholas S. Ludlam, John Alstyne, Henry Weld, John G. Mott, Thomas W. Ogden, Richard H. Ogden, Frederick Pentz, Matthew Campbell, William E. Dunscomb, Francis V. Many, Thomas D. Moore, Joseph P. Pirsson, Philip Henry, John Hart, M. D., John Paige Mumford, George T. Adee, James Wallace, Thomas C. Butler, John H. Murphy, Samuel T. Skidmore, Samuel Burrell, Thomas C. McRae, Thomas Brown, William S. Campbell, John P. Ritter, John Bulkley, Jr., Thomas C. Winthrop, Joseph R. Bleecker, John H. Cornell, John Duncan, Abraham B. Skillman, Alexander Walker, George P. Cammann, Lewis B. Henry, Robert Hyslop, Clement C. Moore, William Moore, Alex. L. McDonald, C. V. B. Ostrander, Henry Youngs, Nathaniel F. Moore, David Cotheal, Peter Embury, William B. Ballou, Dayton Hobart, John Lloyd, Thomas W. C. Moore, George C. Fennell, George T. Strong, Cornelius Oakley, John H. Tallman, William H. Walter, Jehiel I. Post, John H. Andrews, William W. L Voorhies, Joseph Hough, Pliny S. Mills, Abraham R. Lawrence, John D. Ogden, M. D., Richard M. Laurence, Alexander I. Cotheal, Prof. Charles W. Hackley, Samuel Rogers, William Hinton, Alexander Chalmers Hinton, Alpheus Banning, Anthony Barclay, John McVickar, William H. Falls, John A. Moore, Nelson Jarvis, Charles Hickman, Samuel Jones, Thomas Maslin, John S. Smith, Ogden Southmayd, John Webb, Louis Loutrel, Theophilus Peck, Elias G. Drake, William G. Haycock, John L. Vandervoort, John Morison, Abel T. Anderson, Francis R. Tillou, John A. Dix, James Bargon, Jonathan I. Coddington. *Number* 127.

Votes for the Year 1854.

Rev. Dr. Higbee, George T. Strong, John R. Livingston, Thos. Scott, A. B. McDonald, Samuel S. Dunscomb, David D. Lyon, Daniel Sheldon, Cyrus Curtiss, John S. Mumford, Pliny S. Mills, John H. Tallman, Richard H. Ogden, William E. Dunscomb, John A. Mitchell, Thomas A. Demilt, Henry Weld, Cornelius Oakley, Nicholas S. Ludlam, Thomas C. Butler, Samuel T. Skidmore, A. L. McDonald, Henry Youngs, Robert Hyslop, Abel T. Anderson, Thomas Maslin. *Number*, 26.

Voters for the Year 1855.

Dr. Edward Hodges, John H. Oley, Charles H. Oley, William H. Harison, John R. Livingston, Matthias J. Miller, D. D. Lyon, A. B. McDonald, A. J. Blacke, Samuel S. Dunscomb, John Dugan, Cyrus Curtiss, William Berrian, John P. Mumford, Henry Richard H. Ogden, William H. Walter, John A. Mitchell, Cornelius Oakley, William H. Falls, Nicholas S. Ludlam, William E. Dunscomb, Thomas C. Butler, Theophilus Peck, Thomas Brown, R. M. Harison, Samuel T. Skidmore, A. L. McDonald, Henry Youngs, George P. Cammann, Henry Erben, Thomas Maslin. *Number*, 32.

SCHEDULE B.

Names of Mortgagors and Date.	Principal amount, due and unpaid.
St. Paul's church, Poughkeepsie, April 26, 1839,..	$5,000 00
St. Ann's do Port Jackson, formerly Amsterdam, Sept. 7, 1838,.....	1,500 00
St. Bartholomew's church, N. Y., June 1, 1837,....	20,000 00
St. John's church, Medina, Orleans county, February 5, 1838,.....	1,500 00
Grace church, South Middleton, Orange county, Jan. 12, 1852,.....	1,750 00
Grace church, Rochester, July 31, 1834,.....	3,500 00
St. Clement's church, N. Y., Oct. 24, 1836,.....	15,000 00
St. Philip's do do Aug. 4, 1835,.....	9,000 00
St. Luke's do do May 2, 1839,.....	15,000 00
St. Paul's do Richmond, Ontario county, Oct. 16, 1849,.....	500 00

Names of Mortgagors and Date.	Principal amount due and unpaid.
St. Paul's church, Kinderhook, Columbia county, May 17, 1852,	$1,000 00
St. John's ch'h, Clyde, Wayne county, Mar. 11, 1853,	800 00
St. Mary's church, Beekman, Dutchess county, April 13, 1853,	900 00
Church of the Intercession, N. Y., April 13, 1852...	1,000 00
Christ Church, Tarrytown, July 9, 1852,	1,000 00
Church of the Annunciation, N. Y., May 3, 1839,..	6,000 00
St. Peter's church, N. Y., June 14, 1837,	25,000 00
Zion do Rome, Oct. 11, 1852,	1,000 00
Calvary do Utica, Sept. 28, 1852,	500 00
St. Paul's do Syracuse, March 11, 1835,	1,800 00
St. Luke's do Brooklyn, March 23, 1842,	1,500 00
Christ do Oyster Bay, L. I., July 27, 1844,	600 00
S. Paul's church, Pleasant Valley, Dutchess county, May 15, 1847,	500 00
Church of the Holy Apostles, N. Y., Sept. 16, 1847,	2,000 00
do do do Feb. 18, 1847,.	4,000 00
Zion church, N. Y., April 27, 1853,	7,000 00
St. Luke's church, N. Y., June 9, 1851,	1,400 00
Church of St. John the Baptist, N. Y., Nov, 12, 1850,	800 00
do the Epiphany, Oct. 27, 1847,	5,486 02
St. John's church, Brooklyn, April 11, 1827,	4,000 00
S. Thomas's do Amenia, Dutchess county, July 17, 1851,	500 00
Trinity church, West Troy, Oct. 7, 1851,	1,000 00
St. Peter's do Peekskill, March 19, 1839,	1,000 00
St. John's do Kingston, Ulster county, June 26, 1839,	1,700 00
St. Luke's church, Rosseville, Staten Island, May 15, 1846,	1,500 00
St. Mary's church, Castleton, Richmond county, July 5, 1853,	1,000 00
St. Mark's church, Newark, Wayne county, May 9, 1854,	500 00
Trinity church, Granville, Wayne county, Dec. 3, 1851,	1,000 00

Names of Mortgagors and Dates.	Principal amount due and unpaid.
Grace church, Clinton, St. Lawrence county, Feb. 1, 1843,	$500 00
Grace church, Waterville, Oneida, Dec. 31, 1852,	1,000 00
*St. Thomas's church, New-York, May 9, 1831,	20,000 00
Church of the Nativity, New-York, April 13, 1837,	7,200 00
St. Barnabas church, Dearman, April 18, 1854,	1,000 00
Church of St. John the Evangelist, Stockport, Columbia county, Nov. 9, 1851,	1,000 00
Christ Protestant Episcopal church, New-York, April 29, 1853,	25,000 00
Grace church, Albany, Oct. 17, 1853,	1,000 00
All Saints church, N. Y., { $8,000 July 2, 1839, / 8,000 Feb. 21, 1839, }	16,000 00
St. Andrew's do Harlaem, Jan. 21, 1834,	4,000 00
St. Mary's do Manhattanville, July 22, 1836,	1,289 13
Christ do Coxsackie, July 5, 1853,	500 00
Calvary do Williamsburgh, Nov. 5, 1853,	500 00
St. Mark's do do May 12, 1853,	6,000 00
St. Paul's do do	400 00
Church of the Annunciation, on 14th-st., N. Y., Feb. 18, 1854,	5,000 00
Church of the Holy Evangelists, and St. George's chapel, N. Y., July 21, 1851,	50,000 00
Church of Ascension, Green Point, King's county, Sept. 14, 1855,	1,000 00
Church of the Messiah, Greenbush, county of Rensselaer, July 31, 1855,	1,500 00
Church of the Messiah, Rhinebeck, Dutchess county, Sept. 15, 1855,	1,000 00
Assignment, Samuel P. Townsend's bonds on the church of the Holy Innocents, N. Y., Dec. 10, 1853,	500 00
St. Luke's church, Jamestown, Chautauque county, Dec. 21, 1855,	1,000 00
Christ church, Coxsackie, Greene county, Jan. 29, 1856,	1,000 00

*All of the above bear interest from date, except St. Thomas' church, N. Y., which bears interest from May 8, 1856.

Names of Mortgagors and Date.	Principal amount due and unpaid
Grace church, Brooklyn Heights, May, 1849,.....	$8,000 00
All Saint's church, Feb. 21, 1829,.....	5,000 00
do Sept. 20, 1856,.....	8,000 00
St. Luke's church, Mechanicsville, Saratoga county Nov, 17, 1856,.....	500 00
Trinity church, Haverstraw, April 17, 1856,.....	1,200 00
Church of the Messiah, Glen's Falls, Nov. 12, 1856,	2,000 00
St. Paul's church, Williamsburgh, June 28, 1850,..	1,000 00
do do Nov. 1, 1856,...	500 00
	$319,525 15

SCHEDULE C.

NAMES OF MORTGAGORS.	Date.	Principal and am'nt due and unpaid.	
		Principal.	Interest from.
James M. Tuthill,.....	Mar. 24, 1856,	$8,000 00	Sept. 24, 1856.
Joseph Tucker,.....	Apr. 21, 1856,	10,000 00	Nov. 1, 1856.
do	do	10,000 00	do
James H. Noe,.....	do	8,000 00	do
Matthias Clark,.....	do	4,000 00	do
Alvin Higgins,.....	do	13,000 00	do
Alex'r M. L. Scott,....	July 1, 1856,	6,000 00	July 1, 1856

STATE OF NEW-YORK,
City and County of New York.

We, the corporation called the Rector, Church-wardens, and Vestrymen of Trinity Church, in the city of New-York, do hereby certify and declare the preceding to be the supplemental report of said corporation, adopted on the 16th day December, instant, made in response to a note of the Honorable Mark Spencer, James Noxon, and Joseph H. Ramsey, a committee of the Honorable the Senate of this State, dated the 2d day of December, instant, and that William E. Dunscomb, Esquire, by whom the said supplemental report is signed, is the comptroller of the said corporation.

In witness whereof we have caused our seal to be here-
[L. S.] unto affixed, this eighteenth day of December, in the year of our Lord one thousand eight hundred and fifty-six.

By order of the Corporation of Trinity Church, in the city of New-York. RICHARD HAYDEN, *Clerk of the Vestry.*

To the Honorable Mark Spencer, James Noxon, and Joseph H. Ramsey, a committee of the Honorable the Senate of the State of New-York:

I, William E. Dunscomb, of the city of New-York, do hereby certify and declare that I am the comptroller of the corporation styled the Rector, Church-wardens, and Vestrymen of of Trinity Church, in the city of New-York, and that it is part of my duty to keep the books and accounts of said corporation; that the preceding supplemental report to the committee above-named, with the schedules annexed, marked respectively A, B, and C, have been made out by me or under my direction; that I know the contents thereof, and believe the same to be in all respects just and true.

WM. E. DUNSCOMB, *Comptroller.*

Dated December 18th, 1856.

EXHIBIT M.

Examination of the Report of the Vestry of Trinity Church before Committee appointed by the Senate.

NEW-YORK, 2*d December*, 1856.

Present, Committee—Mark Spencer, James Noxon, Joseph H. Ramsey.

Frederick M. Winston, sworn.—Q. Have you made yourself acquainted with the mortgages held by Trinity Church? A. Yes, sir.

Q. Did you obtain your knowledge from the office of the register? A. I did.

Q. Have you also examined the register's office for all the mortgages of Trinity Church? A. Yes, sir.

Q. Is this a true account of said mortgages? A. It is, I believe.

Q. Are these all the mortgages on the record from the beginning? A. I believe they are.

Papers rendered by F. M. Winston marked exhibits A. and B.

Copy of letter to vestry of Trinity Church, 29th November, on file, marked C.

Reply of Trinity Church to above communication, on file, marked D.

Copy of answer to Trinity Church, on file, marked E.

Adjourned to 3d instant, 10 A. M.

3*d December*, 1856—10 *A. M.*

Committee met—Present, all the members.

Charles H. Clayton sworn.—Q. Do you belong to the congregation of Trinity Church? A. Yes, sir.

Q. Which one? A. Trinity chapel.

Q. As one of the corporators? A. We hire a pew in the chapel; there are no corporators there as pew holders; a pew holder is not a voter except he be a communicant; they have raised

the lease within a few months by which I hold my pew ; this is now the mode in which the pews are let. Lease left, filed F. The lease lasted one year when the alteration was made ; change took place about the last of last April.

Q Do you think Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding, or support or promotion of religious, charitable or educational institutions or purposes ? A. I do not.

John W. Ritch, architect, sworn.—Have resided in the city of New-York since 1830 ; have been engaged as architect daily since 2d March, 1834, in this city ; have been in business for myself since 1846. My business is principally improving property to make it productive to the owners ; have made many designs for buildings in all parts of the city, and consider myself able to judge of the value of real estate in all parts of the city. Have had before me a pamphlet schedule submitted to the Legislature by Trinity Church, and from that have made a sketch of all lots therein mentioned, and as accurately as possible without an actual survey. These maps are copies from the tax commissioners' office, made by surveyors employed by city officers to make assessments. The values placed upon the lots by me are believed to be accurate.

This map of the city of New-York, shows by the red patches upon it the property owned by Trinity Church. One lot, 76 Chambers-street, I know, sold for $16,000, an actual sale, afterwards for $30,000, which was abandoned, since for $37,500, an actual sale, and is now worth $50,000, not the property of Trinity Church but in the immediate neigborhood

My valuation is cash, for the ground only, what it would bring at auction at the Merchants' Exchange to-morrow.

Abner L. Ely, sworn.—Reside in Green-street, am agent for the care of real estate, agent for the estates A. Loubat, C. F. Moulton and all the London branch of the Astor family. My occupation has led me to have acquaintance with property in all parts of the city ; have appraised property for insurance compa-

nies to loan upon. I have looked at all the maps made by Mr. Ritch; have put a valuation upon a majority where they were regular lots, which schedule of valuation he leaves and is marked. Said estimate of valuation is what it will bring for cash in the auction room. There are a number of irregular lots on map 20, upon which I have put no valuation, also on map 22, also on map 32; have estimated according to what property immediately opposite has rented for on short leases. The value of property has increased very much within a few years, from Fulton to Reade-street. I esteem the present market price too high to warrant permanent investments between those streets, and therefore the prices might be unjust to fix as the basis for the terms of a new lease of twenty-one years. The property from Reade to Canal-streets, is now changing, and there have been but few sales recently, from which to fix the present cash value.

Rev. John Henry Hobart, sworn.—Am assistant minister of Trinity Church; have been minister in the parish eight years.

Q. Do you think Trinity Church has done its utmost to make the capital of the property of that corporation, available for the founding or support or promotion of religious, charitable or educational institutions or purposes? A. I believe at present that there is a desire to make their property the most available; I believe that in certain matters, more might have been done to make the property available.

Edward G. Higbee, sworn.—Have been assistant minister in Trinity Church for about eighteen years.

Q. Do you think the vestry of Trinity Church has done its utmost to make the capital of the property of that corporation, available for the founding, or support or promotion of religious, charitable or educational institutions or purposes? A. Almost from the period of my connection with the parish, there have been circumstances which have prevented in some degree the full benefit to be derived from this fund. I am at present not able to answer whether the vestry have done the most to make the fund so available. I understand that all communicants for one year preceding the election, and all persons holding a pew

direct from the vestry, have the right to vote. I have never been able to see a list of the corporators of Trinity Church. Dr. Wainwright and myself have made several efforts to obtain such a list unsuccessfully. Dr. Wainwright after being made bishop, told me he did receive such a list. The list is kept in the office of Trinity Church, and in charge of the controller ; on making enquiries for such a list, was told it was in the joint charge of said controller and rector. There was an ordinance of the vestry interfering in some respects with the privilege of voting in Trinity Chapel for a time, which was subsequently rescinded.

Jesse Pound, sworn: Am clergyman in the Protestant Episcopal church, have been so for eighteen years in this city; was considerably acquainted with the proceedings of Trinity Church in managing their fund. I do not consider the trust has been administered in such a way as best to promote the object for which it was given. Their course, in certain instances, to my knowledge has been partial. I apeak of their partiality as a fact, to my certain knowledge. It is a notorious fact, that while some churches have had aid to an excessive amount, others have been entirely cut off or proscribed. My period of ministry here expired the first of May last; had charge of a free church in this city, principally attended by people who had no means of hiring their own seats. There was not a wealthy individual in the congregation; applied to Trinity church for aid to sustain the church, which was granted; a partial aid; $400, for several years, then reduced; then a movement was made to withdraw it. This was the first church founded in the city by individual charity. For some reason, a prejudice was conceived; a proscriptive course towards it adopted and pursued. After fourteen years, the church died out. Six months after this took place, a full statement was made to Trinity Church of the condition and prospects of the church, with the purpose of discontinuing the church after the 1st of May, should they continue to withhold aid. Copy of above statement handed in and filed, marked G. Trinity Church allowed my church to be closed for want of such aid. At the very time this was permitted, Trinity Church was aiding

largely churches up town; they gave largely to St Luke's that very year, which had already received $70,000. To the church of the Annunciation, a wealthy church in Fourteenth-street, $25,000, besides large contributions before. The notice was given in November, 1855, to take effect 1st May following. St. Matthew's church was closed on 1st May; is now closed and offered for sale. The property has been re-conveyed to the donor.

Herman D. Aldrich, sworn: Merchant; resides No. 8 East-Fourteenth-street; have lived in New-York thirty-five years. Am acquainted with the value of property in this city, below Canal and not west of Greenwich-streets. Am acquainted with the property marked on maps 2, 4, 5, 6, 7, 8, 9, 10, 11, and 12; have put a value upon the property marked on above maps, based upon the usual terms of sale. Have a list of the property on these maps, with my valuation opposite each:

Map.	Lot.				
2	109	Greenwich-street,	$13,000	same value as year ago.	
4	199	Fulton-street,	19,000	do	do
	201	do	26,000	do	do
	205	do	21,000	do	do
	207	do	21,000	do	do
	211	do	10,000	do	do
	36	Vesey-street,	25,000	10 per ct. advance on year ago.	
	48	do	22,000	do	do
	55	do	17,000	do	do
5	9	Barclay-street,	30,000	not much change.	
	13	do	29,000	do	do
	15	do	29,000	do	do
6	77	Murray-street,	23,000	5 per ct. advance on year ago.	
	83	do	21,000	do	do
	69	Warren-street,	22,000	10 per ct. advance on year ago.	
	75	do	20,000	do	do
	85	do	18,000	do	do
	87	do	18,000	do	do

Map.	Lot.				
7	273	Greenwich-street, ...	17,000—5 to 10 per ct. advance on year ago.		
	275	do	18,000	do	do
	277	do	14,000	do	do
	279	do	18,900	do	do
	281	do	9,000	do	do
	136	Chambers-street, ...	25,000—stationary.		
	138	do	16,000	do	
	140	do	15,000	do	
	142	do	16,000	do	
	148	do	21,000	do	
	147	do	21,000	do	
	155	do	20,000	do	
	157	do	20,000	do	
	159	do	20,000	do	
	161	do	19,000	do	
	163	do	19,000	do	
8	49	Warren-street, ...	25,000—10 per ct. advance on year ago.		
	51	do	25,000	do	do
	44	do	32,000	do	do
	56	do	29,000	do	do
	112	Chambers-street, ...	28,000	do	do
	114	do	28,000	do	do
	89	Reade-street, ...	18,000—50 pr. ct. advance.		
9	69	do	24,000	do	do
	71	do	17,000	do	do
	10	Warren-street, ...	40,000—5 to 10 per ct. advance on year ago.		
	18	do	40,000	do	do
	20	do	40,000	do	do
	30	do	38,000	do	do
	5	Murray-street, ...	40,000	do	do
	7	do	40,000	do	do
	9	do	40,000	do	do
	251	Broadway, (depth 107 ft.)	120,000	do	do
	252	do	90,000	do	do
	256	do	90,000	do	do

Map.	Lot.				
10	156	Reade-street, ...	9,000	—50 per ct. advance on year ago.	
11	104	do (if 25 ft. front)	20,000	do	do
	106	do	18,000	do	do
	108	do	19,000	do	do
	110	do	19,000	do	do
12	60	do	26,000	do	do
	74	do	25,000	do	do

The Reade-street property has increased within a year full 50 per cent. Throughout that whole district a general advance has taken place within a year.

Adjourned to 4th instant, at 10 A. M.

NEW-YORK, *4th December*, 1856.

Committee met. Present all the members.

Rev. Stephen H. Tyng, sworn. Am rector of St. George's church; have been rector for eleven years and six months.

Q. Is the statement in that report of Trinity Church relative to St. George's Church correct? A. To the best of my knowledge and belief it is not correct.

Q. Do you now speak of both paragraphs? A. I did refer to both, but would refer to particular statements. The whole consideration received by St. George's church, in consideration of the transfer of that property, was $25,000. I do not know of any other parties to whom additional moneys were paid. They make the cash transfer on the property $55,660.33 by their statement. To the best of my knowledge and belief, Trinity church never paid but $25,000 for St. George's church. I know nothing of the amounts paid for improvement of the church of the Holy Evangelist.

Q. Do you believe the vestry of Trinity church has done its utmost to make the capital of the property of that coporation available for the founding, or support, or promotion of religious, charitable, or educational institutions, or purposes? A. I do not believe they have.

Q. Have they materially reduced the stipends formerly paid to clergymen in this city? A. I have heard no instance in which they have not; have heard several instances in which they have.

Jasper Grosvenor, merchant, affirms: I do not know the value Trinity church places upon the lot corner Broadway and Murray-streets.

Q. Did you ever make an offer for it under the lease? A. I made an offer of $40,000, subject to the lease. I paid them $10,000 for the stipulation that they would renew the lease at its expiration on the usual terms. My lease expires in 1872—the renewal to be for twenty-one years from that expiration. The ground rent of the present lease is $26.25 a year. I hold my lease from the original lessee, but it has passed through two or three hands in the mean time.

John W. Todd, builder, sworn: Resides 155 West Twenty-first-street, New-York: have lived in New-York thirty two years; my business has led me to become acquainted with the value of property in all parts of the city; I have appraised the property shown on maps 1 to 19, inclusive; will complete it in a short time, and hand it in to the chairman of the committee.

Q. Can you state what is the general character of the improvements on this property? A. Except a few buildings down town they are generally of a cheap nature.

Q. What influence has such leases upon adjoining property? A. To deter improvement.

Q. What influence upon property and growth? A. To keep it back.

John W. Ritch, recalled.—Have placed a value on all the property described on the maps, from one to thirty-nine, inclusive, except such plots as are used for burying grounds and church purposes, and such valuation appears upon the sheets of paper herewith delivered to the committee, numbered one to thirty-nine, inclusive. Maps and sheets filed, and marked H. The improvement generally upon this property is poor. Some por-

tion of it is well improved. Many of them are of the worst character in their effect upon their neighborhood; would be much better for city and property owners if these leases were removed. The property below Duane-st. is well improved. These are the valuations of the lots, put upon them by Trinity Church, and by which they were relet before the last report to the Legislature was made, within three years.

205	Fulton-street,	annual rent	$1,000,	on value	$20,000.
207	do	do	1,000,	do	20,000.
36	Vesey-street,	do	1,225,	do	24,500.
48	do	do	1,050,	do	21,000.
13	Barclay-street,	do	1,250,	do	25,000.
15	do	do	1,250,	do	25,000.
83	Murray-street,	do	1,000,	do	20,000.
18	Warren-street,	do	1,425,	do	28,500.
44	do	do	1,250,	do	25,000.

I know this from my own knowledge, and from the record office. Valuation placed by the church upon the property occupied by H. R. Railroad depot, corner Chambers and Chapel-sts., was $100,000, about a year ago.

Sullivan H. Weston, sworn.—Have been minister in the church for eight years.

Q. Do you think the vestry of Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding, or support, or promotion of religious, charitable or educational institutions or purposes?

A. With the organization they had, they did all they could—certainly in the lower part of the city. I do not feel able to answer the question. If their property is worth what it is represented to be, I think they have not done all for the poor and the church they might have done.

Luther Bradish, sworn.—I have been long acquainted with the vestry of Trinity Church, and the management of its trust, and was for many years a member of the congregation and a pewholder in the church.

Q. Do you think the vestry of Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding, or support, or promotion of religious, charitable or educational institutions or purposes?

A. I do not. It is a subject of serious complaint by churchmen throughout the city.

Q. What has been the operation of the law of 1814 on the church directly?

A. The direct effect was to exclude a very large portion of the original corporators.

Q. Have you examined the law of 1814, and do you think it in accordance with the terms of the original grants of said property?

A. I have examined it, and consider it a flagrant violation of the original grants. I suppose it is susceptible of being ascertained who were entitled to vote previous to the law of 1814. All communicants of the church under the original charter, were entitled as corporators, to vote. The reports to the convention would prove who were entitled to be heard in 1814.

A. In what other respect, if any, does the act of 1814 differ from the originel grants? Trinity Church claims under the act of 1814, the absolute right of property belonging to this trust, and has exercised such right. I know that Mr. Troup, in behalf of Trinity Church, urged it as a reason for the act of 1814, in a pamphlet over his name, that it would enable Trinity Church to make these endowments. I do not know that Trinity Church has availed itself of this portion of the act.

Q. In what respect has the vestry failed to do what was asked in the first question? A. In failing to aid feeble churches and to establish others where required in this city. The want of free churches throughout the city is severely felt

Q. Did Episcopalians in the city petition the Legislature for the passage of the law in 1814? A. Churchmen throughout the city strenuously opposed the passage of the law.

Mr. L. Bradish is requested to answer the following interrogatories:

1. From what source was the property now held by Trinity Church derived?

2. To whom and by what title was these grants made?

3. For what purpose?

4. After the change of government at the Revolution, to whom and under what title, and for what purposes were these grants renewed by the Legislature of this State in 1784?

5. When did the present corporation of Trinity Church procure a change in the title and control of this property?

6. What was the nature of the change?

7. What its effect upon the vested rights of corporators as originally constituted?

8. What were the circumstances under which it became a law?

9. Has the present law been quietly acquiesced in by "the inhabitants of the city of New-York, in communion, &c.," since the passage of said law, or have they resisted it as an illegal violation of their vested rights?

10. Is it your opinion that the act of 1814, is subversive of the rights of individuals, and, therefore, unconstitutional and unjust?

11. Did Col. Troup appear as counsel for Trinity Church in the effort made by that corporation to procure the passage by the Legislature of the law of 1814, by which the rights of original corporators were cut off?

12. Did he, in his argument before the Council of Revision, state, *and in what terms*, that if the law sought were passed, giving the control of this vast estate exclusively to the corporation of Trinity Church, she would go forward with more freedom and liberality than she had hitherto done, in setting off and suitably endowing independent churches, and in dividing and distributing the large landed estate which she had hitherto held as trustee for the "Rector and inhabitants of the city of New-York, in communion with the Protestant Episcopal church, in the State of New-York."

13. Have you examined the history of the grants of land by the vestry of Trinity church, as compiled and published by its rector, the Rev. Dr. Berrian?

Will you state the dates, purposes, grantees and value of said grants of land, as given in said history, previous to the passage of the law of 1814?

Also. the like facts as to the grants of land by said vestry, since the passage of the law of 1814, so as to demonstrate the comparative results of the law in question, upon the interests of religion and learning?

1st Answer. The property now held by Trinity church has been derived mainly from two royal grants, the first in 1697, under William III., king of England, consisting of the parish church and a part of the land known as "the queen's garden," which, together with two lots of land derived from other sources, forms the present church-yard, or burying ground of the church. The second in 1705, under Anne, queen of England, consisting of the tract of land known as "the duke's or king's farm," then "the queen's farm." Trinity church holds some other smaller pieces of real estate derived from other sources.

2d Answer. The first of the grants above specified, in my answer to the first interrogatory, was expressly "declared to be forever separated and dedicated to the service of God, and to be applied to the use and behalf of the inhabitants, from time to time, inhabiting and to inhabit within our said city of New-York, in communion of our said protestant church of England, as now established by our laws, and to no other use or purpose whatsoever, any statute law, custom, or usage to the contrary, in any ways notwithstanding."

The second of the grants above specified, and by far the most important, was made to the corporation, by its corporate name, previously created, and known as "The Rector and Inhabitants of the city of New-York, in communion of the church of England, as by law established, and their successors." This corporation was created by charter under William III., of England in 1697, in the words following, viz.:

"And we have further thought fit, and, at the humble request of our loving subjects, are graciously pleased to create and make him, our said Right truly, and well beloved, and Right Reverend Father in God, Henry Lord Bishop of London, and his Successors, Rectors of said Parish, together with *all the Inhabitants*, from time to time, inhabiting, and to inhabit in our said City of New-York, and in communion of our said Protestant Church of England, as now established by our Laws, as Body corporate and Politic * * * * * in fact and name, by the name of "*The Rector and Inhabitants of our said City of New-York, in communion of our Protestant Church of England, as now established by our Laws.*"

The essential powers of this corporation were re granted by an act of the Colonial Legislature in 1704, to "The Rector and Inhabitants of the City of New-York in communion of the Church of England, as by law established, and their Successors."

The corporation thus created by the charter of William III., in 1597, and the act of the Colonial Legislature, in 1704, is recognised in the grant of Ann, in 1705, and the grant made to that corporation, by its corporate name.

All the inhabitants, from time to time inhabiting, and to inhabit in the city of New-York, and in communion of the Protestant Church of England as established by law, were corporators of the corporation created by the aforesaid charter of 1597, and the act of the Colonial Legislature of 1704, and were, therefore, beneficiaries under the grants of William III., in 1697, and of Ann, in 1705.

3d answer. From the terms of the charter of William III, in 1697, of the act of the Colonial Legislature of 1704, and of the grant of Ann in 1705, it is evident that the purpose and object of these grants were the establishment and maintenance of the principles and services of the Protestant Episcopal Church throughout the city of New-York.

4th answer. By the legislative act of 1784, the corporation, created by the royal charter of 1697, and act of the Colonial Legislature in 1704, was saved from forfeiture, by reason of any

non-user or misuser between the 19th of April 1775, and the date of the said act of 1784; it being expressly enacted in the said law, "that nothing in this law, nor no non-user or misuser between the 19th day of April 1775, and the passing of this law, shall be in any wise construed to annul, injure, repeal or make void the said charter, or the said law first above particularly mentioned, where the same are not inconsistent with the Constitution of the State."

In its manifest object of adapting the corporation to the new state of things produced by the Revolution, the consequent independence of the State, and the adoption of the Constitution of this State, the Legislative act of 1784 did not change the title of the corporation, or the rights of the parties interested, but expressly declared "that nothing in this act contained shall be construed, deemed or taken, to prejudice or injure the right or title of any person or persons whatsoever, to any lands or tenements occupied or claimed by the corporation aforesaid."

5th Answer. In and by the act of January 25th, 1814.

6th Answer. The act of 1814 authorized the corporation previously created, instead of its then corporate name of "The rector and inhabitants of the city of New-York, in communion of the Protestant Episcopal church, in the State of New-York," "to take and use the name of '*The Rector, Church-wardens, and Vestrymen of Trinity Church, in the city of New-York.*'" This virtually created a new corporation, with new corporators, and new qualifications for the exercise of the right of voting for those who, as agents and trustees, were to manage and apply the large estates, in which, by the original grants, all the inhabitants of New-York, in communion of the Protestanc Episcopal church in the State of New-York, were legally interested.

7th Answer. By the Royal Charter of 1697, and the act of the colonial Legislature of 1704, all the inhabitants of the city of New-York, in communion of the Protestant Episcopal church, were made corporators of the corporation thereby created, and, as such, had the right to vote for the church-wardens and the vestrymen, who, with the rector, not only formed the vestry of

the parish church, but were the agents and trustees for the management and application of the common property.

By the act of 1814, all the inhabitants of the city of New-York, in communion of the Protestant Episcopal church were excluded from the corporation thereby created or newly modelled, and deprived of the right of voting at the annual elections for churchwardens and vestrymen of the said corporation, except "male persons of full age, who, for the space of one year preceding any election, shall have been members of the congregation of Trinity church, or of any of the chapels belonging to the same, and forming part of the same religious corporation, and who shall hold, occupy, or enjoy a pew or seat in Trinity church, or any of the said chapels, or have partaken of the holy communion therein within the said year."

The act of 1814, also seriously affected the rights of property of those thus excluded, and who, by the royal charter of 1697, and the act of the colonial Legislature of 1704, were constituted corporators of the corporation thereby created, and beneficiaries under the valuable grants made therein, and in the royal grant of Ann, in 1705. For although in the act of 1814, it is provided "That nothing in this act contained shall be construed to affect or defeat the right of any person or persons, or of any body corporate to the estate, real or personal, now held, occupied or enjoyed by the corporation of Trinity church;" yet that act having already deprived the great body of Episcopalians of the right of being corporators, and voting for the agents and trustees of the common property, the saving of the mere abstract right of property is worth very little. The right of voting for the agents and trustees, who are to manage and apply the corporate or common property, is an essential incident of the right of property itself; is indispensable to the protection of such right, and necessary to give it full effect. The mere bald, naked, abstract right of property, without the right of electing the agents and trustees, who are to manage and apply such property, is practically of little value. The act of 1814, therefore, in excluding the great body of Episcopalians of the city of New-York rom the new corporation thereby created or materially changed;

and in depriving them of the right of voting for the agents or trustees of the corporate or common property, not only deprived them of valuable franchises previously granted to, and enjoyed by them, but virtually divested them of their right of property; or rendered that right of little practical value. As a consequence, the valuable grants originally made for the use and benefit of the inhabitants, from time to time inhabiting, or to inhabit in the city of New-York, in communion of the Protestant Episcopal Church, and to the rector and inhabitants of the city of New-York, in communion of the Protestant Episcopal Church, since the passage of the act of 1814, seem to have been viewed and administered as the individual and exclusive property of the corporation newly created, or materially remoddled by that act; and the grants, which have since been made out of this property by the new corporation, have been presented as gratuities of that corporation, and not as appropriations of the proceeds of a trust fund, to which the parties receiving such grants were justly and of right entitled. These grants have been claimed as acts of liberality, and not as the faithful execution of a great trust, created and endowed for expansive benevolence, not for exclusive or restricted emolument.

8th Answer. From the Journals of the Legislature and the Council of Revision, which I have examined, it appears that the petition of Trinity Church for the act of 1814, was presented in the Senate of the State on the 17th of March, 1813, a bill brought in, which was passed by that body on the 25th of March, 1813, and by the Assembly on the 2d of April, 1813. On the 5th of April, 1813, the bill was received by the Council of Revision, and referred to the chancellor, who reported objections to the bill. These objections were considered by the council on the 25th of January, 1814, when the vote thereon was equally divided. No order therefore was made thereon, and the bill became a law by lapse of time, without ever having received the express sanction of the executive department of the government.

9th Answer. The act of 1814 has not been quietly acquiesced in by the great body of Episcopalians in the city of New-York: on the contrary, from its passage to the present time, it has been

a continued subject of dissatisfaction, and occasional efforts for its material modification or repeal.

10th Answer. It is my deliberate opinion, after careful examination, that the act of 1814 does attempt to deprive the great body of Episcopalians in the city of New-York of important franchises, and to divest them of their rights in valuable estates, granted and confirmed to them by legal and valid acts; and therefore that the said act of 1814 is unconstitutional, unequal, and unjust. Nor has the said act, in my opinion, as was promised at the time of its passage, advanced, nor is it calculated to advance, the great objects of Christian benevolence, for which the original corporation was created, and so liberally endowed.

11th Answer. In a pamphlet over the name of "Robert Troup," dated 6th of September, 1813, and while the bill in question was before the Council of Revision, or its committee, there is the following: viz., "with his zealous exertions to procure the passage of the bill through the two houses of the Legislature, and with this very humble attempt to recommend it to the approbation of the council." From this declaration of Colonel Troup, I conclude that he did appear as counsel or agent for Trinity church in the effort to procure the passage of the act of 1814.

12th Answer. In the pamphlet of Colonel Troup, above referred to, in my answer to the 11th interrogatory, and which pamphlet appears to have been written in support of the bill in question, while it was pending before the Council of Revision, and with a view to induce its passage into a law, there are, among others, the following remarkable and very significant paragraphs, viz, "judging from the past, it is morally certain that the future increase of the population of the city will strongly recommend to the corporation of Trinity Church the policy of dividing its corporators, and setting them off in separate churches, with suitable endowments; and to enable the vestry to do this in a mode free from all legal doubts, and with the assent of a majority of the corporators to be set off, is a fifth object of the bill."

Again: "The bill, when passed into a law, would have the happy consequence of enabling the vestry of Trinity Church, from time to time, as society shall advance, to separate churches with the consent of their congregations, and to endow them with competent estates. No power can be more congenial than this to the spirit of our republican systems. The frequent *exercise* of the power likewise, by breaking down the estate of Trinity Church, would allay the fears of those honest republicans, who look upon large estates as nurseries of sentiments hostile to liberty; and it would calm the minds of those enthusiastic devotees who believe that religious societies, when possessing wealth, seldom employ enough of it in the heavenly work of propagating the gospel."

The action of the vestry of Trinity Church, previous and subsequent to the passage of the act of 1814, gives peculiar significance to these paragraphs of the pamphlet of Col Troup.

13th Answer. I have examined the history of the grants of land made by the vestry of Trinity Church, as presented in "an Historical Sketch of Trinity Church, New-York, by the Rev. William Berrian, D. D., the rector of the same," in a pamphlet entitled "Facts against Fancy, or a True and Just View of Trinity Church," supposed to be by the Rev. Rector of Trinity Church; and in a conmunication of the vestry of Trinity Church to the Senate of the State, in reply to resolutions of the same, passed April 13, 1855, transmitted to the Legislature Feb. 20, 1856.

From these documents it appears that previous to the passage of the act of 1814, grants of land were made, and are valued as follows, viz:

Date.	No. of Lot.	Description of Property.	Value.
1748		Site of Trinity school, number of lots and value not given. (F. 16.)	
1752		All these lands between Murray and Barclay-streets, and from Church-street to the river, being an endowment of Columbia College, (F. 15.)	$500,000 00
1765	2	For a ferry from Paulus Hook (H. 367.) Value not given.	

Date.	No. of lot.	Description of property.	Value.
1775	2	In Vesey-street, for a pier and slip. Value not given. (H. 368.)	
1785	3	For the use of the senior pastors of the Presbyterian congregations of New-York, (H. 367,)	$50,000 00
1798	28	To St. Mark's church, in the Bowery, viz: 5 in Warren-st., 1 in Church-street 12 in Reade-street, 3 in Harrison-street, 2 in Greenwich-street, 5 in Provoost-street; value in 1847, $131,500. (F. 19,)	131,500 00
1800	7	To Trinity school on Lumber, Rector, and Greenwich-sts.; value in 1847, $35,000, now (F. 16,).....	50,000 00
1802	32	To the society for promoting religion and learning in the diocese of New-York, situated on Barclay, Warren, Greenwich, Hudson, Beach & North Moore-streets—value in 1847, $120, 000, now much more, (F. 17.)	
1805	4	To Christ church, New-York, on Barclay-street—value in 1847, $24,000, now (F. 27,)	48,000 00
1807	2	To St. Stephen's church, New-York, on Warren-st; value in 1847, $13, 000, now (F. 25,).....	26,000 00
1809	4	To St. James' church, Newtown, viz: 1 on Reade-st., 1 on Greenwich-st., 2 on Lumber-st; value in 1847, $20,-000, now much more, (F. 24.)	
1809	5	To St. Peters', Westchester, on Reade Chambers and Warren-streets; value in 1847, $22,500, now (F. 23,).....	45,000 00
1809	5	To St. George's, Flushing, viz: 3 on Warren-st., 2 on Chamber-st.; value in 1847, $19,500, now greatly increased, (F. 23.)	

Date.	No. of lots.	Description of property.	Value.
1809	4	To Grace church, Jamaica, viz: 3 on Lumber-st., 1 on Reade-st.; Value in 1847, $18,500, now much more. (F. 23)	
1809	2	To St. Ann's, Brooklyn, on Chambers st.; value in 1847, $13,000, now (F. 24,)	$26,000 00
1809	6	To St. Michael and James', N. York, on Chambers, Vesey & Warren-sts., value in 1847, $39,000, now (F. 26)	78,000 00
1809	4	To Trinity church, Utica, viz: 3 on Reade-street, 1 on Clark-street; value $12,000, since materially increased, (F. 27.)	
1810	2	For a free school in Hudson-street, lots and value not specified, (F. 13.)	
1810		Land in Duane-st, for a market in Brannon-street, value not specified, (H. 368.)	
1811	25	To Grace-church, New-York, viz: 7 on Rector-street, 2 on Vesey-st., 3 on Barclay-street, 2 on Warren-street, 5 on Chambers-street, 2 on Church-street, 4 on Reade-street; value in 1847, $120,000, now..... (F. 20.)	240,000 00
1812		Land, supposed to be four lots, for a market on Christopher-street, between Greenwich and Washington-streets; value not given. (H. 231-2)	
1812-13	33	To St. George's, N. Y., viz: 8 on Reade-street, 4 on Greenwich-street, 6 on Murray-street, 9 on Chambers-street, 4 on Warren-st., 1 on Barclay-street, 1 on Beekman-street; value in 1847, $170,000; now,.... H. 249,250—F. 21.)	340,000 00

Date.	No. of lots.	Description of propertyr	Value.
1813	4	To St. James's, New-York, on Chambers, and Barclay-streets; value in 1847, $26,000; now, (F. 26,).....	$52,000 00
		Grants of Land made subsequent to the passage of the act of 1814.	
1815		Further grant of lots to the Free School Society, number of lots not given, supposed to be five; value not given. (F. 13.)	
1820	3	To St. Luke's Church, N. Y.	
1827	2	do do	
1834	3	do do	
		Value in 1847, $30 000; since materially increased. (F. 29.)	
1832	5	To Trinity School, N. Y., on Canal Varick, and Grand-streets, leased at a nominal rent for 63 years; estimated equal to a capital of $20,000. (F. 17.)	
1835	1	To Ascension Church, N. Y., on Vesey-street; value in 1847, $6,500; now, (F. 31,).....	13,000 00

The number of lots in the foregoing statement includes only those grants of which the number of lots is given. It omits, therefore, the site for Trinity Church; the whole endowment of Columbia college, so far as the number of lots is concerned; land in Duane-street, granted for a market in Brannon-street; and land on Christopher-street, for a market on that street.

From "the communication" of the vestry of Trinity Church to the Senate, made in February, 1856, it appears that the whole number of lots given to churches down to the 15th of February, 1855, was 146. Of these, 137 were given previous, and 9 subsequent to the passage of the act of 1814.

It also appears that down to 1855 the whole number of lots given for the advancement of the church and of religion, for

general and public purposes, and to institutions of learning and charity schools, and leased for 63 years free of rent, was 172, of which 162 were given previous and 10 subsequent to the passage of the act of 1814. It then appears that down to February, 1855, the whole number of lots given by the Vestry of Trinity Church, for all purposes, was 318; of which 299 were given previous, and only 19 subsequent to the passage of the act of 1814. Of the 299 lots which were given previous to the passage of the act of 1814, 167 were given within 15 years, 94 within 5 years, and 62 within 3 years, before the passage of that act.

It also appears that within fifteen years before the passage of the act of 1814, the Vestry of Trinity Church built, set off, and endowed with landed estates, three churches; since the passage of that act, not one.

It also appears that since the passage of the act of 1814, the number of Episcopal parishes in the city of New-York has increased from nine to nearly fifty; but that not one of all this increase has been built, set off, and endowed with landed estates by Trinity corporation.

As an inducement to the passage of the act of 1814, it was urged as "morally certain" that the future increase of the population of the city would strongly recommend to the corporation of Trinity church the policy of dividing its corporators, and setting them off in separate churches, with suitable endowments; and to enable the vestry to do this, in a mode free from all legal doubts, was an object of the bill. The bill was drawn up and passed accordingly; but since its passage, the corporators have never been divided, set off, and suitably endowed.

As a further inducement to the passage of the act of 1814, it was represented that the bill, when passed into law, would have the happy consequence of enabling the vestry of Trinity Church, from time to time, as society should advance, to separate the churches, with the consent of their congregations, and to endow them with competent estates: "That no power could be more congenial than this to the spirit of our republican system:" That "the frequent (execution) exercise of the power

likewise, by breaking down the estate of Trinity church, would allay the fears of those honest republicans, who look upon large estates as nurseries of sentiments hostile to liberty; and would calm the minds of those enthusiastic devotees, who believe that religious societies, when possessing wealth, seldom employ enough of it in the heavenly work of propagating the gospel."

Since the passage of the act of 1814, "the happy consequence" thus promised, has not been realized; the churches have not been separated and endowed with competent estates; the power, so congenial with our republican systems, sought and granted, has not been exercised; the large and increasing estate of this powerful corporation has not been broken down, nor the fears of honest republicans allayed, or the minds of enthusiastic devotees been calmed.

On the contrary, since the passage of the act of 1814, every other consideration and interest seem to have been made to yield to the new-born policy of accumulation, and paramount object of keeping that large and increasing estate together in one mass. The wise and salutary policy of landed endowments, which, previous to the passage of the act of 1814, had given away 299 lots, has, since the passage of that act, with its novel powers, and increased facilities, been so far paralyzed as to grant only 19 lots in all; and for more than twenty years last past, seems to have been abandoned. Since 1835 it does not appear that a single foot of this large and increasing landed estate has been given for any purpose whatever, unless it be some fine burial plots in Trinity cemetery, given to charitable societies.

Instead of grants of land, the corporation seems to have confined itself of late, wholly to the practice of making pecuniary grants, either in the form of loans on mortgage, or in most cases, in small annuities, or annual stipends, dependent wholly upon the will of the donor.

The effect of this would naturally be, as it is believed to have been, to interfere with the independence of both clergy and parishes. It is believed too, that this habitual leaning, for annual support, upon this wealthy corporation, has had the

natural effect of weakening, rather than strengthening feeble parishes.

The parishes which have received endowments in land, are, almost without exception prosperous and strong. They are now, not only independent of further aid, but are able and willing to aid others. Whereas a large proportion of those, which have only been aided by annual stipends in money, have naturally, and almost necessarily spent the money as fast as received, without acquiring any permanent strength, or any feeling of self-reliance; and consequently are now no more able to sustain themselves by their own inheritent and acquired strength, than they were many years ago.

A return to the policy and practice of endowments in landed estate, as contemplated in the act of 1814, and was promised as an inducement to the passage of that act, can alone give a real and healthy development of church growth and parochial independence. This together with a more active and diffusive appropriation of this large and increasing trust estate, substituting, for the policy of accumulation, and a too restricted, if not exclusive use, a more equal and just participation, can alone fully accomplish the great object of this trust estate, and faithfully carry out the benevolent purposes of its donors; while a perseverance in the present policy, and a continuance of the stipendiary system, can only extend the list of pensioners on this fund, impair the wholesome spirit of self-reliance, promote parochial debility, and personal dependence, and thus defeat a great object of active and diffusive christian benevolence.

I cannot but think, therefore, that the passage of the act of 1814, and the new system, which if not induced by, has been pursued under it, have not promoted, in the best manner and highest practicable degree, the interest of religion and learning, but have been essentially injurious to both.

The foregoing answers are mainly given from knowledge derived from a careful examination of the documents, or copies thereof, referred to therein; and I believe them to be just and true.

L. BRADISH.

New-York, Dec. 24, 1856.

Samuel T. Skidmore appeared:

Q. Are you a vestryman of Trinity church, and member of the standing committee? A. Yes; I decline to be sworn, for the reason that in view of the communications passing between the committee and comptroller, it seems to me improper.

Thomas H. Taylor, sworn: Am rector of Grace church; have been so for nearly twenty-three years.

Q. Do you think the vestry of Trinity church has done its utmost to make the capital of the property of that corporation available for the founding, or support, or promotion of religious charitable, or educational institutions or purposes? A. From my outward observation of their acts, I should say not.

Q. In what respect? A. Because they have not multiplied churches throughout the city to any extent, in proportion to their means. The aid which they have extended to feeble churches has been done reluctantly and offensively, either by taking mortgages on the churches to which they advanced money, or by annual payments to the support of the minister; in either way increasing their power over the corporations and minister of the church to an extent which was fatal to all independence of thought or action on the part of such corporations or ministers. The tendency of this action is to enable her to exercise an overwhelming influence throughout the diocese. Grace church, with about five hundred communicants, has no representation in this corporation, by the act of 1814; that act, together with the subsequent action of the vestry, has had the effect to cut all off, the same effect applies to all the churches in the city. In illustration of my opinion, I would state that a very worthy minister of a parish in the vicinity of the city, whose church was embarrassed by a debt of some four thousands of dollars was told by his warden that he had applied to the controller of Trinity church for aid in their pecuniary embarrassment. The reply he received was, "we can give you no help, for your minister voted against us at the last convention." The reply of the warden amounted to this, "our minister voted against the restoration of Bishop Onderdonk, but in doing so, we do not perceive how he voted

against Trinity Church." The controller replied, "to vote against measures approved by Trinity church is to vote against her, and we are resolved, for the future, to take care of our friends." The warden remarked, "if the course of our minister is to ruin me and his church, I will go his security that he will not offend in that way again." The minister, who came to me with this statement, then said, "of course, nothing is left to me but to pay this debt, or to leave the church. As I cannot do the one I must seek for the bread for my children somewhere else, for the warden is my personal friend, and he is personally liable for the debt." He resigned his parish, and left the State. This is but one of the many instances of the sort that has come to my knowledge.

John D. Wolfe, sworn.—Am merchant in the city of New-York. Was formerly a vestryman of Trinity Church for about ten years. I was omitted at an election some eight or ten years since.

Q. Do you think the vestry of Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding, or support, or promotion of religious, charitable, or educational institutions or purposes? A. They did not much in the way of charity; for that general object I do not think they did. Have never seen a list of the corporators; the vestrymen are not allowed to see it that I know of. The reletting of lots when leases expired was done by a finance committee to whom the offers were made and then approved by the vestry. They do not make annual reports of the affairs of the church nor are any published.

William E. Dunscomb, sworn.—Am comptroller of Trinity Church.

Q. In addition to the property set forth in the report to the Legislature, does not Trinity Church hold other bonds and mortgages? A. There are unproductive mortgages on churches, taken for grants made which were not included. A sum of money is granted as a loan and mortgages taken for the aid granted to the churches; like other mortgages, there is a power to foreclose them, but we never take measures to collect them;

never have exercised the power; it is understood as being an ordinary loan, as aid to them, but giving Trinity Church the right to call for principal or interest. I have no recollection of measures being taken to foreclose. I cannot state the name of the persons entitled to vote. I have no authority to give the list of bonds and mortgages above referred to, and would consult with the vestry.

Q. Have you a list of the voters in your possession? A. One of the lists was lost and afterwards found, and the number but not the names was added to our report. I presume their names are in the office; if the committee of the vestry authorize me to furnish such list I will do so.

Q. What interest if any has Trinity Church in St. John's Park? A. Since its appropriation as a park, it has never been considered as property to be disposed of by the church; they owned the whole park originally; we have never made any negotiation for the sale of it; do not know that owners have offered the church any sum for their interest; the vestry did fix a value of $400,000 upon it.

Q. Did you find it difficult to sell lots in their present condition? A. We cannot sell them without first consulting our tenants, and nobody applies to purchase leased lots but them. On page 6 of the report, those 37 lots sold have been mostly sold to the tenants, and the 47 re-let have been re-let to the lessees. The church does sell lots in the neighborhood of Warren and Murray-streets, where they have become valuable.

Q. What was the inducement to continue under lease the property corner Murray and Broadway-sts., when offered $50,000 for it? A. They have sold so much that they want to keep in reserve for all time something for the churches. The renewal of the leases is done by a committee. The value of the buildings separate from the lots, was estimated by sending around agents to enquire into the value of those buildings. Trinity Church makes an annual report to the body of the vestry of the affairs of the corporation, but does not publish it. The report is in the office, and open to the inspection of any member of the vestry.

Q. Have not the vestry been urged by Gen. Dix and others to publish it? A. Gen. Dix was anxious to have it published, but the vestry did not think it worth while; he wanted it published to be useful to the vestry, but not for general circulation. There have been two reports made to the Legislature which were published at large, but the others were not intended for general circulation.

Copy of Mr. Dunscomb's testimony made and sent to him at his request.

Cyrus Curtiss, sworn.—Am merchant in the city of New-York; am a vestryman of the Trinity Church; have been so for about 6 years; I have seen one list of the corporators which was kept by Dr. Berrian, at an election. There is an annual report of the affairs of the corporation made, but not published; some of the vestry have desired to have it published. Have been on a committee to examine the annual report and examination of the accounts of the controller; they have access to all the books referred to in the annual report, and such only.

Q. Why do you continue to relet lots instead of selling when the corporation is in want of funds? A. I cannot say because it is a subject that belongs to the standing committee of which I am not a member; do not know of the number of lots given away since 1814. It has been the policy of the vestry of late to give no lots, what they give is a donation. The pews in Trinity Chapel were let the first year in a manner to preclude the creation of a corporator; by that act they deprived them of the privilege of voting as a pew-holder, and on the second year that restrictive clause was rescinded. My impression is, the standing committee has the power to renew leases in the church. I do not know the value of the interest of the Trinity Church in St. John's Park.

Q. Has no value been placed on it? A. I am not able to say that any value has been placed on it; the subject of selling it was referred to a committee. The business of the church is principally done through the standing committee, comprising about six besides the controller and clerk. I should suppose

the controller has the power to furnish a list of assets and corporators.

Adjourned to Friday, 19th December, 10 A. M.

NEW-YORK, *Dec.*, 1856, 10 A. M.

Committee met, present all the members.

James H. Noe, brush manufacturer, sworn.—Q. Did you buy a lot of Trinity church within a year? A. I did; the deed is dated the 1st of May.

Q. At what time did you make your bargain? A. In the latter part of January or 1st of February, 1856.

Q. Where was the lot? A. 275 Greenwich-street.

Q. What price did you pay for it? A. $20,000.

Q. Do you know of any other lot sold in that neighborhood? A. No, sir.

Supplementary Report in reply to a note of Hon. Mark Spencer, James Noxon and J. H. Ramsey, a committee of the Senate, bearing date December 2, 1856, *from Trinity church, handed in, marked J.*

Abner L. Ely, recalled.—Q. Will you look at that appraisal and say which is yours? A. The second column, with my name at the top, with the figures entered in black ink.

Jno. W. Ritch, recalled.—Since last sworn I have collected several of the maps presented by me on that occasion, and the appraisal is my appraisal of the lots appearing upon the maps as corrected. The sum total is $5,431.520. The valuations numbered from 1 to 39 consecutively, correspond with the maps and are my valuations of the property represented on the maps. This valuation is made as the price they would now bring at auction. My valuations are so moderate that I can find purchasers for the several lots at the prices I have named.

Rev. Henry Anthon sworn.—Was assistant-minister in Trinity church from 1831 to 1836.

Q. Do you think, from what you saw during that period and up to this time, that the vestry of Trinity church has done its utmost to make the capital of the property of that corporation

available for the founding or support of charitable religious and educational institutions? A. I do not.

Q. Are the assistant-ministers members of the vestry? A. They are not. While I was assistant I had a conversation with a Mr. Graham, one of the vestry, and I impressed upon him the necessity of establishing two funds, one for church buildings and one for church glebes, he replied that my policy was to open the strong-box and his was to keep it closed; my reply was, no, your policy is to open it to your favorites.

Q. In aid rendered by Trinity Church to other Episcopal churches of this city, since 1814, has such aid been spontaneous and voluntary to the extent of its means, or has it generally been given reluctantly, and after earnest and protracted solicitations?

A. The aid furnished by Trinity Church since 1814 has been done upon applications, and not voluntarily, and such aid in many cases, I have reason to believe, has been reluctantly granted.

Q. Have mortgages in many cases been required as security for the sum advanced?

A. In several cases, to my knowledge, it has been done.

Q. What effect has aid in these forms upon independence of speech and freedom of action on the part of parishes and clergymen thus aided when they meet in our diocesan conventions and other church associations, and when there are diversities of opinion as to matters of morals and doctrine?

A. In my opinion the effect is seriously to impair their independence.

Q. In applications for aid, has Trinity church, in your opinion, favored those whose party views and actions were similar to her own?

A. Unquestionably. For instance, while the application of St. Jude's church was pending, which was ultimately refused, it is said grants were made St. Luke's, the Holy Apostles, Dr. Seabury's, and others.

Q. Have they refused aid on the avowed ground that the views of the applicants were not coincident with their own?

A. It is my belief that they have.

Q. Have they in any way endeavored to control the free opinion or acts of vestries or ministers who had received or were seeking aid for their churches?

A. I know an instance where they refused aid because the rector had interested himself in obtaining signatures to a memorial to the Legislature for the repeal of the act of 1814. It was in the case of St. Jude's church, in this city, in 1845. He was informed that the success of his application depended upon his keeping silence in the convention. It is my impression that the large grants of aid to the Church of the Annunciation, when country churches were refused aid in small sums of $300 to $400, showed the operation of partizan feelings. It appears to me, that the History of Trinity Church, by Rev. Dr. Berrian, from 1835 to 1847, shows that the grants to churches and individuals stand in the proportion of $80,000 to what are called high churchmen, to $8,000 to those who are called low church. (Pages 384, 385, 386, History of Trinity Church, by Dr. Berrian, the rector.)

Q. What facts are in your knowledge to prove that the vestry of Trinity church has not done its utmost to make the capital of the property of that corporation available for the founding or support of charitable, religious, and educational institutions?

A. In 1813, the property was of such value that the vestry, to calm the fears of the Legislature, in view of their great wealth, promised that their funds should be applied to the building of churches, from time to time, as the increase of population demanded; the control of such churches to be relinquished to independent vestries, &c., suitable endowments to be made. In the forty-three years that have elapsed since 1813, the vestry have built Trinity church and its chapel, at a cost, it is said, of half a million, a sum which would have built twenty-five or thirty ordinary churches, and instead of endowing any churches have made loans to several, from time to time, taking mortgages on their property, &c., consequently holding them as their debtors.

Q. Has the law of 1814 been acquiesced in by Episcopalians generally, or have they resisted it as an illegal violation of their

vested rights? A. The law of 1814 has not been acquiesced in by Episcopalians in this city, and has been objected to, and strong efforts have been made by Episcopalians to have it repealed.

Joseph Tucker, sworn.—I purchased two lots of Trinity Church in April last, for $10,000 each; numbers 283 and 285 Hudson-st., west side, seventy-five feet from Spring-st.

Matthias Clark, sworn.—I purchased one lot of Trinity Church about the first of last March, number 525 Greenwich-street, gave $6,000 for it. I have known the property a good many years, and do not consider there was any variation of any consequence in the value of my own or Mr. Tucker's lots for six months previous to the purchase.

Abner L. Ely, recalled.—Presents an appraisement; this appraisement is my valuation of the property appearing upon the maps as corrected by Mr. Ritch; the column in the list with my name at the head is my appraisement. I should be willing to purchase any three lots lying together at my valuation above Reade-street. Paper marked I. Total valuation $6,103,500.

John M. Dodd, recalled —The appraisement presented by Mr. Ely contains in it my appraisement of the value of the lots set forth in the maps. The column in the list with my name at the head is my appraisement. I will purchase to the extent of my means any or all of the property at the value I have put upon it. I consider it a low valuation, except the down town property which I consider valued at its present selling price. Paper marked I. Total valuation $6,087,050.

James M. Tuthill, sworn.—I bought last February a lot of Trinity Church for my wife; gave $10,450 for it; marked as No. 12 Hubert-street on map; deed says 10.

Stephen Cambrelling, sworn.—I am a member of the Protestant Episcopal church.

Q. Are you intimately acquainted with the affairs of Trinity Church? A. I cannot say that I am.

Q. Do you think the vestry of Trinity Church has done its utmost to make the capital of the property of that corporation

available for the founding, or support of charitable, religious or educational institutions? A. I should think not.

Q. Upon what facts do you found your opinion? A. From their not having erected or assisted in the erection of free churches in the city, and in not assisting feeble churches requiring aid.

Q. From whom was this property derived? A. I would refer to the charter and grants.

Q. What has been the effect of the law of 1814 upon the church and upon the acts of Trinity Church? A. It has been unfavorable, undoubtedly.

Q. In what respect? A. It would seem since the passage of that act, the course of Trinity Church has been much less liberal to the church in the city of New-York; the law has been the subject of complaint by Episcopalians generally in New-York, aside from Trinity Church and her chapels, and the Episcopal community has not acquiesced in it.

James W. Webb, sworn.—I am a member of the Protestant Episcopal Church. Am not acquainted with any facts relative to the passage of the law of 1814 and its effects upon the church. I am editor of the Courier & Enquirer, and have been for 29 years I wrote the editorial article in the Courier of this morning relative to Trinity Church, and also the article to which it refers, copied from the Courier of 1844.

Q. Did you ever converse with Chancellor Kent relative to the law of 1814, as to its constitutionality? A. I had repeated conversations with the late Chancellor Kent in relation to the constitutionality of the law referred to, in course of which he distinctly expressed the opinion that he had become satisfied that it was unconstitutional, although he had voted in favor of it in the Council of Revision. He further said that if there was any necessity for it, he would give me at any time a certificate to that effect.

R. S. Wiley, sworn.—Reside in the city of New-York; am pastor of Christ's church; was not a clergyman of the church at the time of the grant from Trinity church; my connection with the church commenced in Sept. 1855.

Q. Can you state any facts in relation to the grants of aid to the church by the vestry of Trinity church? A. I cannot.

Robert S. Howland, sworn—I am a minister of the Protestant Episcopal church; am rector of the church of the Holy Apostles.

Q. Do you think the vestry of Trinity church has done its utmost to make the capital of the property of that corporation available for the founding or support of charitable, religious, or educational institutions? A. I think it has been their intention; I do not think they have done as much as they should for the building of free churches, or for the aid of feeble churches. My church received $6,000 from Trinity church and gave the usual mortgage.

John D. Wolfe recalled—Q. Who conducted the elections when you were vestryman in Trinity church? A. The rector, Dr. Berrian. In addition to the requirements of the law they required that all persons desiring to vote should give previous written notice of such desire to the rector. I objected to that requirement when a vestryman; I considered it an obstacle to voting contrary to the law.

Q. In applications for aid has Trinity church, in your opinion, favored those whose party views and actions were similar to her own? A. I accused them openly of being governed by party views in granting aid to churches.

Q. Have they refused aid on the avowed ground that the views of the applicants were not coincident with their own? A. I think they did decline on that ground, as far as their gifts extend; the church is divided into two parties of high church and low church, and the aid almost universally granted is to churches known as high church.

Q. What was done with applications for aid from those representing low churches? A. Almost universally declined.

Q. Will you please look over the list now handed to you of persons represented to be corporators of Trinity church? Do you see on it the names of any considerable number of deceased persons, or of persons who have removed from this city? A. On the list of "corporators who are communicants and not pew-

holders" do not know of any of them having deceased; on the list of "corporators as pew-holders" there are some names of deceased persons, and of persons residing out of the city.

W. A. Muhlenberg, sworn.—I am a minister of the Protestant Episcopal church; have been in the ministry for thirty-nine years—for ten of which I have been in the city of New-York.

Q. How many free Protestant Episcopal churches have been established as such by Trinity church in this city, within the last five years? A. Trinity church has not established any free churches in this city within the last five years.

Q. Has Trinity church clergymen, employed as ministers at large, whose special duty it is to look after the spiritual wants of the poor and destitute among the "inhabitants of the city of New-York, in communion with the Protestant Episcopal church?" A. I do not know that she maintains any ministers, besides those officiating in her own churches; but she partially supports others, who are ministers of free churches, in this city.

Q. Has the aid granted to free churches been at all commensurate with its ability? A. So far from doing her utmost, in extending aid to feeble churches, and in providing for the religious and moral improvement of the poor of the city, in these respects, I think she has fallen far short of her ability, reckoning her ability at what it is generally understood to be. In a large section of the eastern part of the city, with a poor and crowded population, and where free churches are especially needed, not more than one Episcopal church has been erected within the last twenty years; while recently, Trinity church has erected a chapel, at a cost for which three or four churches could have been built, equally substantial and capacious with the said chapel, and this in a quarter of the city in which the people are able to build churches for themselves. Missionaries, endeavoring to establish free churches in the above mentioned eastern district, and struggling to support themselves while so doing, have frequently complained of the little encouragement afforded them by Trinity church in effecting their object. Trinity church has made no permanent provision for her own poor—her desti-

tute widows, orphans and sick. I mean in the way of founding institutions for their benefit; with the exception, perhaps, of Trinity school. The aid extended by Trinity church to feeble churches, or congregations, is granted as a favor, and in most instances, (so far as I am informed,) not until after much solicitation on the part of those to whom it is given. The foregoing are notorious facts; and as such I have stated them, and not on any knowledge peculiar to myself in the premises.

Adjourned to 20th inst., 10, A. M.

20th Dec., 1856, committee met, present all the members.

Frederick S. Winston, sworn—In answer, has been a resident of New-York thirty-one years; am president of the Mutual Life Insurance company, of New-York.

Q. Does your company loan money on bond and mortgage in this city? A. We have about $3,000,000 on bond and mortgage in this city.

Q. Have you examined the maps of the property of Trinity church here exhibited, and the valuations made by order of this committee by Messrs. Aldrich, Ebner L. Ely, Jno. M. Dodd and John W. Ritch? A. I have.

Q. What is the reputation of the appraisers, above named, for judgment and knowledge as to the present value of real estate in those parts of the city, where said property is situated. A. They are considered men of good judgment and are familiar with property in those parts of the city. They are frequently consulted or employed by persons having money to loan on or to invest in real estate. They are experts.

Q. What effect has the disposal of large masses of property by lease, upon the value of contiguous real estate held by individuals or others; upon the increase of commercial facilities, manufacturing or other improvements, the augmentation of taxable property and the employment of mechanical and other labor? A. It operates generally as a dead weight upon the value and productiveness of such contiguous real estate. It has the effect of depressing the value of contiguous property by preventing im-

provements. It tends to cheapen and keep down the character of improvements for commercial and other purposes, both upon the leased property and the real estate adjoining, and by these means throws the great burden of taxation upon other property held in fee, and necessarily furnishes less employment for the laboring and mechanical classes.

Q. Has the value of the real estate of Trinity church greatly increased since 1814? A. It has; some of it very greatly in value, most of it largely.

Q. What was the population of the city of New-York in 1814? A. About 105,000.

Q. What in 1855? A. 629,850, or sixfold increase.

Q. How many free Protestant Episcopal Churches are there in this city? A. The following are so considered: Holy Communion, Epiphany, Holy Innocents, Nativity, Memorial, St. Michael's. I know of no other, unless the church in Beekman-street be so considered. Most of these churches are feeble, and exist by the unwearied appeals for assistance and support made by their ministers from week to week upon the charity and liberality of private individuals who are members of the Protestant Episcopal Church.

Q. How many have been established as such by Trinity Church? A. None that I know of. She aided in the establishment of two in connection with the City Mission Society; but they were subsequently abandoned, and the property of one reverted to Trinity church, I believe.

Q. Has Trinity Church clergymen employed as *ministers at large*, whose special duty it is to look after the spiritual wants of the poor and destitute among the "inhabitants of the city of New-York, in communion with the Protestant Episcopal Church of the State of New-York?" A. I know of no clergymen so employed by Trinity Church, or of any disconnected with the services of Trinity Church and her chapels. I think there are independent Episcopal churches in this city, with little or no

endowment, which contribute more in money and labor to teach and preach religion through our church at home and abroad, and whose benefactions reach a larger amount in aid of Christian and benevolent objects, than those of Trinity Church and its chapels, with the vast endowment it controls.

Q. Has Trinity Church ever established hospitals or other institutions for the benefit of the poor? A. Trinity Church has never, to my knowledge, established any hospital or public institution for the spiritual or temporal benefit of the poor in connection with the Protestant Episcopal Church, or otherwise.

Q. What increase has there been in the number of the Protestant Episcopal Churches in the last ten years? A. I doubt whether there are any more Protestant Episcopal Churches in the city now than there were ten years ago. The increase has been very slight, if any.

Q. What increase in the city churches in accomodation for the poor? A I think but little additional accommodation, if any.

Q. What increase in the city population in that time? A. Probably over 200,000.

Q. Has the Protestant Episcopal church increased in numbers in that time? A. It has largely increased.

Q. Has the poor increased in proportion? A. They have kept pace fully.

Q. What increase in the value of the property of Trinity church in that time. A. I think it has more than doubled.

Q. Is there, or is there not, in the city a prevailing sentiment against appropriations by Trinity church to country churches? A. There is not. The complaint against Trinity church is not for what she has given, but for what she has withheld.

R. S. Howland, re-called.—Q. Have you made any application yourself to Trinity church in behalf of some poor church? A. Two and a half years ago, I made a proposition to Trinity church to give $20,000, $15,000 for a free church, and $5,000 for schools connected with it, if they would contribute, I think it was, $10,000 to the same purpose. They took no notice of it; they

did not even acknowledge the receipt of my communication. One year ago I renewed this proposition in another form. The application was for about $15,000 for aid to two churches, the Holy Apostles' and St. Timothy's, offering at the same time, on my part, a similar amount. The standing committee of the vestry have reported against accepting my proposition, but the vestry have it still under consideration. Members of the vestry have stated that they reported against it, from the fact that they had no funds. While this was pending they have expended $15,000 for the improvement of St. John's chapel and the schools connected with it. The two churches for which I applied were very poor and needy, and while my application has been pending they have finished an expensive chapel in Twenty-sixth-st., for a neighborhood that, it is my impression, was able to build one for themselves.

Q. Do you receive any salary in the church where you are rector? A. I do not receive any; my services are rendered gratuitously, in addition to which, I pay from $500 to $1,200 annually towards snpporting the assistant-minister and missionary connected with the church, because my congregation are not able to support one minister.

Q. What is the nature of the advances made by Trinity church to other churches? A. When Trinity church makes advances to other churches, it is my impression it is done as benefactions; it is treated by them as a charity from them, rather than as an application of the trust funds to which all the churches have a right.

Q. Do you think there is a prevailing sentiment among Episcopalians in this city against the distribution of the funds of Trinity church among country churches? A. I do not.

Q. Do you think the possession of this property by Trinity church, managed as it is, prevents the growth of the church in this city? A. I think it does.

G. J. Geer, sworn: I am an Episcopal clergyman in the city of New-York. I am assistant minister in the church of the Holy Apostles, and rector elect of St. Timothy's church, in Fifty-first street. In the whole region of the northwestern part of the

city, from Twenty-sixth street up to St. Michael's, Bloomingdale, I am the only resident minister that I am aware of, who sustains parochial relations of the Episcopal church. The spiritual destitution throughout that portion of the city, is awful. I was elected rector of St. Timothy's one year ago last November or October. During that time, I have supplied them with Sunday services, and have answered such calls as have been made upon me for parochial duty, in that whole neighborhood, from Twenty-sixth-street to Fifty-fifth-street. There is a small church in the Eighth avenue, near Fortieth-street, the church of the Advent, the rector of which resides down town; so, that for the ministrations to the poor, there is no other provision made. It has been represented to Trinity church that we are ready to begin an earnest parochial work for the upper portion of this section of which I speak, and we only wait for the acceptance of the proposition of the Rev. Mr. Howland. This proposition still remains unaccepted, and at their last meeting, I am informed the standing committee unanimously reported against it. The reason assigned by various members of the vestry, was want of ability; and individual members of the vestry acknowledged the proposition the noblest ever made to it. During this year, I think in the spring, a letter was addressed to Trinity church, by a warden and the vestrymen of St. Timothy's church, calling their attention to this proposition of Mr. Howland, and setting forth the great want of a church in that neighborhood; which letter has never received the slightest attention, that we are aware of.

In my judgment, the selling of Zion church, or the permitting it to pass out of the hands of the Episcopal church, in this city, was indicative of a want of serious concern for the spiritual wants of that most destitute portion of the city, on the part of Trinity church. Zion church was located in the five points. I was informed that the clergy of the city did make great efforts to have the church retained. I have been informed that the Roman Catholics have become possessed of it. Trinity church gives to St. Timothy's church, two hundred dollars as a stipend, which she can cut off at any moment.

Alfred B. Beach, sworn: I am an Episcopal clergyman in the city of New-York—rector of St. Peter's church, in 20th-street,

My church made application within two years, to Trinity church for aid. St. Peter's church was very much in debt, and the application was for relief from that debt. A full statement of our debt of $30,000 was made to Trinity church, and aid asked to relieve us from it; the church is situated in Chelsea, a poor part of the city; was built in 1836, and became involved, owing to the failure of those who undertook the building Trinity church advanced to St. Peter's $25,000, taking a mortgage for it, or rather St Peter's borrowed of Trinity church, $25,000 which she first granted as a loan, then on application from St. Peter's for Trinity church to assume the bond, Trinity church agreed to let the mortgage remain, on condition that Dr. Moore who had leased seven lots to St. Peter's, would convey the same in fee to St. Peter's church, and also that St. Peter's church would pay a floating debt that had accrued, amounting to some $17,000, which both Dr. Moore and the congregation of St. Peter's did ; we subsequently applied for further aid, which has been refused. Application has been made to Trinity church, by those who had given bonds to allow the mortgage held by Mr. Lenox, to be a first mortgage, which they refused, saying, if after paying off their mortgage of $25,000, there was enough left to pay Mr. Lenox his debt and one year's interest, they should then apply the balance on account of interest on the $25,000.

Mr. Bradish will write out his testimony, and hand it in, by consent of the committee.

James Boorman affirms.—I am a merchant of this city. When I was president of the Hudson river railroad company, I bought the lease of four half-lots on Chambers-street, 25x50; they were bought under leases, two of which expired the first of May this year, and two the first of May next year. The ground rent for the whole, under the leases which we bought, was $440. Last year a negotiation was entered into by our board for the renewal of those leases I understood that first the church talked of $4,000 as the rent; the committee subsequently reported they had raised it to $5,000. I remonstrated decidedly, but against my remonstrances, the company agreed, in December, 1855, to pay the $5,000 per year rent, which at five per cent., makes the fee of the lots worth $100,000.

Robert B. Minturn, of the city of New-York, merchant, affirms:

Q. Are you a member of the Protestant Episcopal Church? A. I am.

Q. Have you examined the maps of the property of Trinity Church, here exhibited, and the valuation made by order of the committee, by Messrs. H. D. Aldrich, Abner L. Ely, John M. Dodd, and J. W. Ritch, and what is their reputation for judgment and knowledge, as to the present value of real estate in those parts of the city, where said property is situated? A. I have seen the maps to which you refer, and I have some knowledge of each of the appraisers. They are persons of great respectability and well informed regarding the value of real estate. I consider them very competent to make such an appraisal.

Q What effect has the disposing of large masses of property by lease upon the value of contiguous real estate held by individuals? A. Leasehold property is generally not so well improved as that held in fee, and consequently the effect of large leasehold estates, is usually not favorable to contiguous property.

Q. Has the value of the real estate of Trinity Church greatly increased since 1814? A. The lots now held by Trinity Church are doubtless worth three or four times as much as they were in 1814, and probably more.

Q. How many Free Protestant Episcopal Churches are there in the city? A. I know of ten, but most of them are small inferior buildings, and feebly supported.

Q. How many have been established as such by Trinity Church? A. That corporation has never to my knowledge built a church with free sittings, though they have contributed to several free churches, and they grant annual stipends to ministers of such churches.

Q. Has the aid granted to free churches been at all commensurate with their ability? A. The aid given to free churches by Trinity Church, certainly bears no proportion to the magnitude of the estates confided to her direction, nor to the amount (over half a million of dollars,) which she has expended upon two churches for her own use. That sum would have built many free churches. If Trinity Church would realize annually a small number of her city lots as leases fall in, she

might so stimulate the erection of free churches as to go far toward meeting the demand for them. Individuals would co-operate in such a measure, as is shown by proposals made to that corporation during the present year, for the establishment of two free churches in destitute parts of the city, provided they would furnish half the cost; these proposals were not accepted by Trinity Church.

Q. What increase has there been in the city churches for the accommodation of the poor during the last ten years? A. The increase has been very inconsiderable—nothing, as compared to the increase of two hundred thousand in the population of the city during that period. The deficiency of churches for the working classes is shown from the fact that in the 4th, 6th, 13th and 14th wards, having together a population of one hundred thousand four hundred and ninety-nine souls, there is not a single Episcopal church; and the 8th, 11th and 16th wards, with a population of one hundred and twenty-eight thousand six hundred and twenty-six souls, have each but one Episcopal church edifice. This deficiency of churches, and that which is also felt in other parts of the city, is, in my opinion, largely attributable to the existence of the Trinity church fund. Individuals regarding that estate as a trust committed to her for the common benefit of all Episcopalians, especially the destitute, will not relieve her from the responsibility, and so long as that fund remains unapplied, I believe that nothing effectual will be done towards placing the services of the Episcopal church within reach of those who are unable to provide them for themselves.

Q. Are you aware of any hostility to Trinity church on the part of Episcopalians in the city on account of her donations to country churches? A. I am certain that there is no such hostility; on the contrary, the complaint against Trinity church is chiefly that more of the estate confided to her charge is not realized and applied efficiently to the extension of the church. The large class of Episcopalians who hold this view, are those who give most freely of their own funds towards the building and support of country churches, and they would rejoice to see the Trinity fund applied extensively in that direction, especially

for the erection of free churches. They regard the existence of such a great endowment, kept together and constantly increasing by the rise of real estate, as a calamity, from its tendency to repress individual benevolence. Their view is, that instead of being held for accumulation, portions of that property should be annually realized and applied to the extension of the church in this city and throughout the State.

Q. Has the law of the year 1814, in regard to Trinity church, been acquiesced in or not? A. I believe that it has not been acquiesced in. In 1846 a large number of Episcopalians united in a vigorous effort for its repeal. It is regarded as unjustly excluding the great body of Episcopalians from participation in a common heritage, and as confining its direction to a very limited number of persons who hold pews, or are communicants in Trinity church or its chapels.

Q. Is not aid often rendered in the form of a yearly allowance or stipend, to the clergyman of a parish subject to be withdrawn at the pleasure of Trinity church? What effect has aid in this form upon the parishes and clergymen so aided? A. The practice of annual stipends is, in my judgment, very injurious, creating a sense of dependence which is calculated to impair the energy and self-reliance of the clergy and their congregation.

Stewart Brown, sworn: I am a banker in the city of New-York.

Q. How many free Protestant Episcopal churches are there in this city? A. There are some six or eight free Protestant Episcopal churches in this city.

Q. How many have been established as such by Trinity church? A. Not any that I know of.

Q. Has Trinity church, clergymen employed as ministers at large, whose special duty it is to look after the spiritual wants of the poor and destitute among the "inhabitants of the city of New-York, in communion with the Protestant Episcopal church?" A. I do not know of her employing any.

Q. What increase has there been in the number of the Protestant Episcopal churches in the last ten years? A. There have been some few additions.

Q. What increase in the city churches in accommodations for the poor? A. There is a very great want of sittings for the poor in the churches in the city.

Q. What is the reputation of these gentlemen whose appraisements have been handed in? A. Mr. Ely I know well. He is a very good appraiser. I think the others are also.

Q. What effect has the disposing of large masses of property by lease, upon the value of contiguous real estate held by individuals? A. The effect is very bad, in preventing the improvement of the adjoining property or of the leased property itself, which, of course, retards the improvement of the city in that neighborhood.

Q. Has the value of the real estate of Trinity church greatly increased since 1814? A. It has very largely increased.

Q. In application for aid has Trinity church, in your opinion, favored those whose party views and actions were similar to her own? A. Most decidedly.

Q. Have they in any way endeavored to control the free opinion or acts of vestries or ministers who had received or were seeking aid for their churches? A. I think they have.

Q. Have Episcopalians in this city objected to grants to country churches? A. I feel certain not; on the contrary, I believe all who have the best interest of the church at heart would rejoice to see Trinity church doing all she could for the extension of religion and the church throughout the State in country and city.

Q. Do you think Trinity Church, in the distribution of its funds, has done all it could for charitable and religious purposes? A. I should say very far from it.

Q. Do you know whether the law of 1814 has been objected to by Episcopalians or acquiesced in? A. It has been objected to by those acquainted with its provisions.

R. What do you think the effect has been upon the church generally in the city, by Trinity church holding this large fund? A. To retard its progress; to dampen the zeal of churchmen

who would otherwise feel the responsibility and necessity of doing the work which they now think it is the duty of Trinity Church, with her large ability, to do. I believe the church in this diocese, this day, would be more prosperous had the fund never existed, because it has been so administered as to prevent individuals from doing their duty.

Adjourned *sine die*.

SECOND REPORT.

Mr. Spencer, from the select committee to whom the report made by them on the 29th day of January last, on the report of Trinity Church made to the Senate on the 19th day of February, 1856, was re-committed, with power to "report by bill or otherwise," respectfully

REPORTS:

That though the Senate declined instructing the committee to take further testimony in the case, yet understanding the church regretted that so little had been made of the opportunity afforded them in the city of New-York, where the committee made a written communication to the vestry before they commenced taking testimony, and the members of the committee personally invited them to appear before them, and with counsel, determined to afford them full opportunity to produce such testimony as they should now think proper to bring before them, and expressed their readiness to at once proceed to the hearing; but no witnesses were produced before the committee till the 13th day of February, since which day nearly all their time, when the Senate was not in session, till the fourth day of March, has been devoted to the examination of witnesses and hearing counsel.

The church was represented by three counsellors, of high standing in their profession, and one of them a vestryman of the church, and intimately acquainted with the affairs and proceedings of that corporation.

Fifteen witnesses have been examined before the committee by the counsel, at great length, all of whom except two Bishops, and one clergyman recalled, were vestrymen or clergymen of Trinity Church. Mr. De Zeng, the agent of the Church at Albany, was also examined as to a single fact. Some interrogatories were proposed by the committee, there being no opposing counsel, nor were there any witnesses produced except on the part of the church. The testimony was principally given in the form of replies, much of it written, and evidently prepared with a degree of care worthy of the great importance of the subject; and it is presumed, from the connection of most of the witnesses with the corporation and their intimate knowledge of all its affairs, that nothing of importance on the part of the Church has been omitted, from the mass of testimony now laid before the Senate.

After the conclusion of the evidence, the committee have heard long and able arguments on the facts and on the law, from two of the three learned counsel employed by the corporation and present during the whole of the examination. Every advantage, therefore, has been enjoyed that could reasonably be demanded; still the counsel appear to have thought it their duty, in commencing their argument to do what the vestry had already done in their report, to protest against the right of the Senate to call for any report from the church or to appoint any committee to enquire into its affairs, and in firm, but not disrespectful language, to deny the authority of this committee to prosecute the enquiry in which they were then under your appointment engaged. The committee supposing they were yielding to the wishes of the church in thus devoting their time to hear the testimony she was pleased to bring before them, would have been quite willing the objection should have been made at an earlier stage of the proceeding, but did not think it right *then* to decline to proceed, and for several days quiety listened also to the very long arguments of the counsel from whom the objection proceeded.

It has been mentioned that during the progress of the examination, no counsel appeared in opposition to the corporation of

Trinity Church. After the testimony was closed a professional gentleman appeared in behalf of the persons claiming to be excluded corporators, who participated in the discussion of the legal questions involved, and of those matters of fact in relation to which there was no material conflict. The argument on both sides was full and elaborate, and the committee feel assured that all the questions at issue have received a careful and thorough investigation.

The rights of Trinity Church under the several grants of the crown of England; and the rights of those claiming to be corporators, were freely discussed by the counsel; and before proceeding to speak of the testimony the committee would briefly state the conclusions to which they have been led.

The right of the corporation, to the property now held by Trinity Church, was granted in the charter of 1697, (which included the church and cemetery, or churchyard,) and the grant of the King's farm, made in 1705, which included the great estate of said corporation.

By the original charter of 1697, it is declared "That the aforesaid church, (meaning the church erected previous to 1697, on the site upon which Trinity Church is erected,) erected and built as aforesaid, and situate in or near the street called the Broadway, within our said city of New-York, and the ground thereunto adjoining, inclosed and used for a cemetery or churchyard, shall be the parish church and churchyard of the parish of Trinity Church, within our said city of New-York, and the same is hereby declared to be for ever separated and dedicated to the service of God, and to be applied therein, to the *use and behalf of the inhabitants from time to time inhabiting and to inhabit within our said city of New-York, in communion of our said Protestant Church of England, as now established by our laws*, and to no other use or purpose whatsoever." And it is further declared that the royal will and pleasure is to make and create, and the Rector of said parish,

"*together with all the inhabitants from time to time inhabiting and to inhabit in our said city of New-York, and in communion of our aforesaid Protestant Church of England, as now established by our laws*, a body corporate, &c.," and then follows the name of the corporation created, which is in these words: "We have ordained, constituted, and declared by these presents, for us, our heirs and successors, do ordain, constitute, and declare, that he (Lord Bishop of London) and his successors, and all such of our loving subjects as now are or hereafter shall be admitted into the communion of aforesaid Protestant Church of England, as now established by our laws, shall be from time to time, and forever hereafter, a body corporate and politique, in fact and name, by the name of *the Rector and inhabitants of our said city of New-York, in communion of our Protestant Church of England, as now established by our laws.*"

It is further declared that for managing the affairs and business of the corporation, there shall be annually elected two church wardens and twenty vestrymen, "*by the majority of votes of the inhabitants of the said parish in communion, as aforesaid.*" The said grant is recorded in the Secretary's office, in book of patents, No. 7, page 82, &c., to which the committee refer, and make part of their report. In 1704, the Colonial Legislature confirmed the grant of 1697, by an act entitled "An act for granting sundry privileges and powers to the Rector and inhabitants of the city of New-York, of the communion of the Church of England, as by law established." In the first section of the act, it is declared that "the Rector, &c.," "and their successors" be able to sue, &c., (here enumerating the powers of the corporation,) and by section 6 of said act, it is enacted "That it shall and may be lawful for the inhabitants aforesaid to assemble and meet together on Tuesday, in Easter week, annually, at the said church, to choose two church wardens and twenty vestrymen, communicants of the said church, to serve and officiate for the next ensuing year, by the majority of the voice of the said communicants so met, and not otherwise" In 1705, Queen Anne, after reciting the act of 1704, that the Rector and inhabitants of the said city

of New-York, in communion of the church of England, as by law established, had petitioned for a grant of the land known as the Queen's farm, unto them and their successors, for the use of said church, makes a grant in these words: "We have given, granted, ratified and confirmed, in and by these presents, for ourself, our heirs, and successors, we do give, grant, ratify and confirm, unto the said rector and inhabitants of the city of New-York, in communion of the church of England, as by law established, and their successors, all and singular, the said farm, &c.," "to have and to hold said farm unto the said Rector and inhabitants of the city of New-York, in communion with the church of England, as by law established, and their successors forever." The committee refer to said grant, recorded in Secretary's office in Book of Patents, No. 7, page 338, &c. No further legislation was had until after the revolution, in relation to this corporation, and until the act of 1784 was passed, entitled "An act for making such alterations in the charter of the corporation of Trinity Church as to render it more conformable to the Constitution of the State." No material alterations were made in the act of 1784 affecting the original powers granted to the corporation. By section three of said act, it is enacted "*that all persons professing themselves members of the Episcopal Church*, who shall either hold, occupy or enjoy, a pew or seat in the said church, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the Holy Sacrament of the Lord's Supper, at least once in every year, being inhabitants of the city and county of New-York, shall be entitled to all the rights," &c. The said section is preceded by the following: "*Whereas, doubts have arisen on those parts of the said charter and law first above mentioned, which speak of inhabitants in communion of the said church of England*—for removal whereof: § 3. Be it further enacted, &c."

In 1788 the corporate name was so altered as to change the title to "the Rector and inhabitants of the city of New-York in communion of the *Protestant Episcopal* church in the State of New-York."

The next legislation was the act of 1814, by which the title was altered to "the Rector, Church-wardens and Vestrymen of Trinity Church, in the city of New-York;" and by section two it is enacted "that all male persons of full age, who, for the space of one year preceding any election, shall have been members of the congregation of Trinity Church aforesaid, or of any of the chapels belonging to the same, and forming part of the same religious corporation, and who shall hold, occupy or enjoy a pew or seat in Trinity Church, or in any of the said chapels, or have partaken of the holy communion therein within the said year; and no other person shall be entitled to vote at the annual elections for the church-wardens and vestrymen of the said corporation."

The complaint made is against the provisions of this section, that it excludes from the corporators a large body of Episcopalians, inhabitants of the city of New-York in communion with the Protestant Episcopal Church, who are beneficiaries under the original grant of 1697, and that by reason of cutting off the right granted to them in the original charter, the act of 1814, is void.

The committee have come to the following conclusions as to the effect of the law of 1814, and the rights of corporators under the several grants and acts passed in relation to the said corporation.

1st. That from 1697 down to 1814 all persons in communion with the Church of England, or the Episcopal Church, being inhabitants of the city of New-York, were corporators and enti tled to vote for wardens and vestrymen, and under the act of 1784, pew holders were entitled to the same right until 1814.

2. That the act of 1814 excludes all such persons unless they are communicants or pew holders in the Church and Chapels of Trinity.

3d. That the Episcopalians at large in the city of New-York had pre-existing rights in the property and franchises of the cor-

poration. under the grants and acts previous to 1814; and the act of 1814 which assumed to divest those rights without their consent was unjust and unconstitutional.

4th. That the Church and cemetery were by the original grant declared to be dedicated "to the use and behalf" of the persons claiming to have been disfranchised under the act of 1814, and to the extent of the Church and church yard, all the inhabitants of the city in communion &c., were by the terms of the grant itself corporators and beneficiaries.

5th. The property granted to the Church by Queen Anne, is given to the "Rector and inhabitants of the city of New-York in communion with the Church of England," and is held by the corporation to the same use as the Church and Church-yard under the original grant. Especially is this so when taken in connection with the act of 1784 which declared that all persons members of the Episcopal Church, either as pew holders, contributors or communicants being inhabitants &c., are entitled to all the rights, privileges, benefits and emoluments, which in and by the charter and law of 1704 *are designed to be secured to the inhabitants of the city of New-York, in communion of the Church of England.*

It is contended by the counsel for Trinity Church that the Legislature have no power to repeal the act of 1814. We think there is no question as to the power existing in the Legislature to *repeal.* The principle is undoubtedly well settled that where a law is in the nature of a contract, and when absolute rights have become vested under that contract, a repeal of the law cannot divest those rights, and a sovereign state has no power to pronounce its acts so far invalid as to affect a right of property or its enjoyment which has become *vested.* This would be repugnant to the Constitution. But inasmuch as your committte have come to the conclusion to introduce a bill to *amend* the act and not to provide for its repeal this question does not properly arise. By the proposed amendment the right of the corporation, its powers and franchises are not to be disturbed; the corporators made such by the act of 1814 are still to be left corporators. The

amendment proposed would restore the corporators who were disfranchised by the act of 1814, and thus enlarge the number of corporators. The principles laid down in the Dartmouth college case were completely *overrode* by the act of 1814. That act subverted vested rights. The 2d section of the act of 1814 gave no new powers or franchises. Nothing in the section which it is proposed to repeal has any of the qualities of a contract. By restoring the rights of those who were corporators under the charter, the original grant will be upheld, the Constitution acknowleged, and no injustice done to the corporators of the church who existed previous or subsequent to the act of 1814. By denying the right of the corporators made such under the original grant, the grant is defeated, the Constitution violated, and the rights of the corporators utterly destroyed. The objection which is raised to the proposition to allow "all the inhabitants in communion, &c.," to vote for vestrymen, for the reason that it may create tumult or confusion, is one of little weight, compared with a right vested under ancient grants and acts. It may become an unwieldy corporation, but in looking at the right of the beneficiaries we can hardly be called upon to take into account the difficulties which may attend the annual elections. Nor can we see that any such difficulties are likely to arise.

It appears from the testimony, that the present condition of the Parish is one full of spiritual life and activity. Additions have been made to the number of the clergy ; they have been assigned to specific fields of duty ; Sunday schools, parochial schools, industrial schools have been started; systematic lay visiting, among emigrants and the poor in the immediate vicinity of her church and chapels, has been provided for ; and great additions to her congregations have resulted already, these labors being mainly among the poor below Canal-street. All this good work appears have been done since the resolutions of inquiry passed the Senate, on the 13th of April, 1855. Resolutions had indeed been introduced into the vestry by Mr. Dix, in May, 1854, in favor of such a change, but they were not acted on. A committee of the Vestry also appears to have been appointed in the autumn of 1854, on the same subject, but no result seems to have followed. The first actual step was taken June 11, 1855, and all the rest has been accomplished since then. Your committee do not assert, however, that this great and happy change is due, in any degree, to the action of the Senate; for the Rector declares

emphatically that "neither the fear nor the favor of man had anything to do with it."

The substance of the rector's pamphlet entitled "*Facts against Fancy*," and also of his *Report to the Vestry*, will be found copiously embodied in the evidence, with additions bringing the account up to the present day. It appears, that in all from the beginning, 201 churches in this State have been aided, more or less, by Trinity Church. Of these 41 are in the city of New-York, 89 in the rest of the diocese, and 71 in western New-York. The Rector, after a careful examination of the books, states the whole amount of money grants, since 1814, to be $998,705.60, which does not differ materially from the sum stated in the late *Report* of this committee. The additional items include several monuments erected for patriotic purposes.

The Rector's testimony mentions that two churches have been "endowed" within a few years—the Annunciation with $25,000, and the Church of the Redeemer, at Yorkville, with $9,000. These "endowments" were omitted from the *Report* of the Vestry, and are therefore new to your committee. In that *Report*, however, the sum of $26,800 is set down as paid to the Church of the Annunciation "for its support,"—the same phrase which describes the ordinary grants and stipends to other churches. And in *Facts against Fancy* the sum of $9,000 appears in connection with the Church of the Redeemer, Yorkville; not as an "endowment," but as the amount to which that church is mortgaged to other parties, and of which mortgages Trinity has undertaken to pay the interest. The omission therefore to mention these two cases as "endowments," appears to be the more correct.

The torpor that was supposed to affect so largely the parish and the administration of the vestry, is strongly denied. The falling off in contributions from the congregations is attributed wholly to the changes of the city, which have left few of any "wealth or condition" yet connected with Trinity Church or her chapels. The small number of voters at elections is regarded as proof of the high satisfaction of the corporators with the doings of the vestry, rather than as an evidence of torpor. In the Vestry itself, the supposed monopoly of knowledge and power by the standing committee is declared not to exist. The Rector testifies that the reports made by that committee are overruled by the Vestry, "scores of times;" or as Mr. Verplanck more quietly expresses it, this reversal takes place "sometimes and in unimpor-

tant matters." Mr. Dix could not tell whether the estate of Trinity Church is now of much greater value than at any other period ; giving as the reason of his inability, that he "is not a member of the Finance Committee," which is merely the same Standing Committee acting under another name. The annual statement of the affairs of the corporators, it is testified, is not printed; and no report whatever is made at any time to the corporators. The Rector is the only one of the nine clergymen of the parish, who has a seat in the vestry.

The charge of partizanship in making grants, is repudiated in very decisive and indignant terms. It is due to the Rector to place prominently in this *report* his protestation in regard to this charge. He says: "As a christian man and a christian minister, I declare that I have never heard one which appears to be more unfounded and unjust. I have never heard a syllable from any member of that body, in any application before them, which would warrant the charge."

Mr. Dix strongly denies that party divisions have ever been alluded to in connection with applications for aid ; and adds, that he cannot be deceived in thus estimating the principles of action in the vestry, except "upon the hypothesis of a depth of dissimulation on their part, and an obtuseness of perception on his own, too gross for the largest credulity." Mr. Skidmore would resign his place as a member of the standing committee if he thought an application, otherwise meritorious, should be rejected on the ground of its being "low Church." Mr. Moore, however, admits, somewhat of personal partiality in the making or withholding of grants, as being inseparable from human nature. On examining the records of votes in the diocesan convention for a series of years, it appears from Dr. Haight's evidence, that of the sixty-six Churches mortgaged to Trinity, eight have at one time or other voted against her, and that of the 130 aided by her at one time or another, not so many as 30 are on the record as opposing her in the diocesan convention. It is testified, also, that stipends have been taken away from low Church parishes, on the ground that they were wealthy enough to need them no longer. In connection with this charge of partisanship, no explanation is given of the extraordinary disproportion of the grant to the Church of the Annunciation; nor of the great difference between the treatment of St. Luke's and St. Matthew's. Both of these last are testified to have been poor, unable to do without assistance, and

to be surrounded by the property of the corporation ; yet one is kept up by large grants amounting at present to $2,200 a year, and in the other case property worth $15,000, with an incumbrance of only $1,300 is sacrificed without any grant, when half the amount given to St. Luke's would have been enough to supply all that was needed.

Among all the stipends now and of late years granted, the only one that is stated in the evidence, to be given to a low Church clergyman, amounts to $300 a year.

Repeated efforts are made to do away with the idea, that "Trinity church has never, at any time, established or endowed any institution of charity or benevolence, even for her own poor." In this connection, the endowment of Columbia College a century ago, the endowment of the society for the promotion of religion and learning, and also of Trinity school, both before 1814, and the grant to Hobart Free College of $50,000, not many years since, are chiefly relied upon; although, from the fact that mention was made of institutions of "learning" as distinct from those of "charity or benevolence," it was manifest that educational institutions were not referred to. The grants to African and diocesan missions, can hardly be regarded as belonging to this department of operations. Nothing else is mentioned, however, as having been done previous to the resolutions of enquiry in 1855. Since then, mention is made, in this connection, of the industrial and parish schools, the lay agents in visiting, the free burials in the cemetery, the collections in the churches, and the communion alms, as well as the Ladies' Dorcas sewing society for the poor : all very excellent in their way. But to speak of these as proving that "Trinity Church has established or endowed institutions of charity or benevolence," is using language in a sense somewhat remote from its ordinary meaning. What seems nearer to the point, is the manner in which the lands now held by St. Luke's Hospital were obtained.

A claim upon land at the foot of Duane street, which the city corporation sold to the Erie R. R. Company, was released by Trinity in consideration of lots high up the Fifth Avenue, given to St. George the Martyr, for a hospital. St. George the Martyr

being unable to build within the time specified, the land was passed over to St. Luke's Hospital, as the only available means of preventing its total loss to the Church by lapsing back to the city. This has never appeared in any published lists of grants made by the Vestry, the title of the lands proceeding directly from the city; but it is claimed, and justly, as being virtually derived from the corporation of Trinity Church.

It will appear, from a careful examination of the mass of evidence presented by Trinity Church, that every point of importance set forth in the previous report of your committee, is here abundantly corroborated.

Additional evidence proves the difficulty in obtaining a copy of the list of corporators, only one copy appearing to have been ever given, and that not until after a formal vote of the Vestry. The list is stated to be inaccurate also, Mr. Verplanck believing that "many" names are omitted from the list of persons entitled to be entered.

No contradiction is offered to the statement in your Committee's report as to the singular pew-leases first given at Trinity Chapel. The explanation is, in substance, that it was a measure of over prudence, adopted in order to prevent the intrusion of pew holders who "had no sympathy" with the Vestry. The measure was condemned at the time by some of the Vestry themselves, and is defended now by none.

It is testified that both before and after 1814, the claim has been made by one or more members of the other city congregations, of the right under the charter, to vote at the annual election of wardens and vestrymen; but that the parties so claiming have not at any time commenced an action at law for the enforcement of their claim. A copy of the resolution passed by the Vestry in 1812, is included in the evidence of Mr. Dix, from which it appears that the Vestry excluded all the members of the other parishes, of their own motion, first; and then applied to the Legislature for the legal power to do so, afterwards.

Instead of showing that the policy of the corporation has been "unvarying," as the Vestry at first reported, the evidence proves

that the policy has been changed; that the era of change was, as asserted by your Committee, the year 1814; and that this change is now openly avowed and defended as being wise and beneficial. But more of this hereafter.

Much stress is laid upon the debt, as a restraint upon the liberal desires of the corporation, this debt being now—after deducting productive mortgages—somewhat less than half a million of dollars. This debt is pleaded as causing the inability to accept the noble proposition referred to in the report of your committee, as well as incapacitating them to grant many other applications. The increase of the debt during the past ten years does not appear to be so much as the cost of the new chapel, a building, however, which seems to have proved much more expensive than was originally intended. The whole present amount of the debt, after deducting the productive mortgages, is more than equaled by the cost of the parish church and the new chapel united. During the past ten years, the aggregate of annual deficits is set down as $273,597.25; the grants during the same time amounting to $288,141.05.

The deficits have been met by sales of real estate. The charge of accumulation is denied on the ground that accumulation means the reinvesting a portion of income as an addition to the principal—a sense in which it does not appear that the charge was made. The parochial expenses, it is testified, cannot be diminished, and rather need to be increased. The salaries of the clergy are not extravagant, being exceeded by those of St. George's, Calvary and Grace churches.

But notwithstanding all these deficits, this growing "debt" and consequent "inability," there is a unanimous agreement among the witnesses that the gross value of the estate has been steadily rising, and is higher now than ever before. No attempt whatever is made to show that the valuation of the church estate as embodied in the report of your Committee, is too high. The only reduction claimed on the total of the productive estate is in the matter of the allowance to be made on account of leases yet to run.

But the committee deem it unnecessary to go into any calculations of the value of leases or of other deductions, the

resolutions of the Senate, called upon the Church to state the estimated value of its real estate "irrespective of the leases"—this not having been done, the committee have endeavored to supply the omission, by taking the valuation of competent appraisers as stated in their former report at $6,087,050; and adding to this $400,000, the price placed upon the St. John's Park property, making together, $6,487,050. This is exclusive of personal property, of which the Church reports a large amount, but which was not called for by the Senate, nor was the Church called upon to report the amount of their indebtedness, which appears to be very inconsiderable, after deducting the "productive mortgages" held by the corporation, and taking into view the value of its property, much of which can be converted into money at very short notice. As to the gross valuation here stated, the committee do not understand the Church to deny its correctness.

The striking discrepancies as to the value of certain lots in the report of the corporation, compared with the actual prices at sale or on reletting, are excused as having been left uncorrected "by inadvertence;" the report being several months in course of preparation. There is no doubt that the excuse is true. But if the whole report was to be based on the assessors' estimates, it does not appear upon what principle a correction could have been made in those few cases, without betraying the striking difference between the two modes of calculation.

The Church mortgages are strongly stated, by all the witnesses who speak of them, to be taken only "to secure to the permanent use of the Protestant Episcopal Church of the United States, the Church buildings and property upon the security of which" the loans were obtained from Trinity Church. It is denied that they are regarded as properly a debt at all, though it is in evidence that they were reported as such in 1854. The loans thus made are looked upon as absolute grants. Yet it is testified that in two cases, those of the City Mission Society and St. Peter's Church, the loans, at first made were purely "business transactions," and "in no sense a gift." In the case of St. Peter's, too, the repay-

ment of the loan was at first guarranteed by the personal bonds of the members of that parish; these being afterwards surrendered, however, the mortgage then took the ordinary form. No explanation is given of the fact that the mortgages held by Trinity over the old Zion Church, and the old Christ Church, did not "secure to the permanent use of the Protestant Episcopal Church" those buildings and property. They were sold, one to the Romanists and the other to secular uses, Trinity remitting the interest, but taking a new mortgage on the new churches up town, as being equally good security. It is clear that there is legal power to foreclose all these mortgages, but it is equally clear that it could not be done without a violation of good faith; and, as Mr. Moore expresses it, if the Church were to foreclose one of them, "such a clamor would be raised, that they would never hear the last of it."

It will be remembered that the comptroller testified $400,000, to be the sum fixed by the corporation, after much discussion, as that for which they would sell their interest in St. John's square. Mr. Dix testifies, that he looks upon this sum not as representing the value of the interest of the corporation in that property, but as " the measure of damage that would be done to Trinity Church by destroying the park." Mr. Skidmore, a member of the standing committee, testifies that the value of the corporation interest in the park is not more than $75,000. The enormous discrepancy is beyond the power of your committee to explain.

Leasehold property in certain quarters of the city is shown to be capable of the highest class of improvements.

It is testified by members of the vestry, that they administer their trust solely as the representatives of Trinity parish proper, and as making grants out of her bounty, and from property which is exclusively her own. They acknowledge no obligation to " the inhabitants of the city of New-York in communion of the Protestant Episcopal Church of the State of New-York."

It is testified strongly, that the Protestant Episcopal Church has not kept pace with the increase of population in the city of

New-York, and that there is in parts of that city a want, and as some say a great want, of more Episcopal churches, especially free churches for the poorer and laboring classes. Mr. Dix testifies to the existence of a population of 120,000, below Canal street, to meet which Trinity has only four churches. The destitution in other parts of the city is shown to be still more pressing. It is admitted that Trinity has, in fact, never at any time built a free church. But it is contended that she has done so in effect, by contributing almost as much money as the erection of such a church required, or by keeping up as free churches, buildings which she might have sold or removed with better prospects of self-support.

The effectiveness of the mode in which Trinity has aided other free churches, may be best seen by examining their condition, as showed by her own clergy. Dr. Haight gives a list of all in the city, amounting to nineteen; of which four are suspended (three of them being fairly dead;) two are worshipping in halls, having no buildings of their own; and thirteen have church buildings, averaging only 450 to 500 sittings, each; an amount of accommodation insufficient for success on the free church plan. The rest are generally in so feeble a state, that, as Dr. Berrian testifies, if the stipend of Trinity were withdrawn, "the most of them would 'languish,' and the rest would in a short time absolutely perish."

Great credit is claimed for the degree in which Trinity Church and St. Paul's and St. John's chapels may be regarded as free churches. But here, too, there seems to be a discrepancy in the testimony, not easily to be reconciled.

The report of the corporation to the Senate in February, 1856, claims only 1,065 free sittings as the whole number in the four churches of the parish, including the seats in the aisles. Dr. Berrian testifies that there are now 1,200 to 1,300,—not a very great difference. Trinity Church is said in the report to have only 56 free pews, or 280 sittings. Yet Mr. Dix testifies, that "much the greater part of the pews in Trinity" are free, that Church being able to seat over 1,000 persons. Mr. Verplanck also testifies, that the pew rents in Trinity Church amount only to $157 a year, which is very small if only 56 of the pews are free. Again, the report of 1856 claims only 39 free pews for St.

Paul's, while Mr. Dix testifies, that of its 144 pews 104 are free; and Mr. Verplanck states its annual pew rental to be only $280. These discrepancies are not easy to explain, but it is evident that those churches, with St. John's chapel, are rapidly becoming more and more free. This, it is testified, is owing to the fact that the classes of persons able to rent pews are rapidly leaving those parts of the city, so that the vestry could not rent the pews even if they would. The only alternative, therefore, is to make the seats free, or else tear the churches down and remove them to the upper portions of the city, which Trinity has never contemplated doing. Were all these churches wholly free, however, they would still be very far from enough to supply the great need of that portion of the city, to say nothing of other portions yet more destitute. And this work, as Mr. Dix testifies, is so peculiarly the duty of Trinity, that if she does not perform it, nothing will be done at all.

Although it is testified that no new churches have been built up, set off and endowed with competent estates since 1814, that the corporators have never since then been divided, that the policy of landed endowment has been abandoned, and that the estate of Trinity Church, instead of being broken down, is now more valuable than ever before; yet no direct attempt is made to disavow or disclaim the representations urged by Col. Troup, in order to obtain the law of 1814. On the contrary, it is testified by Dr. Berrian, that Col. Troup was one of the vestry of Trinity at the time, and was also one of a "committee, appointed by the vestry, with full power to make application" for that law to the Legislature. This, of itself, clothes his representations with a degree of authority which cannot be impaired by inference or inuendo merely. And this position of authorized agency explains the reason why he, rather than any other person, was "asked for his reasons in support of the bill."

Another consideration is important on this subject. The law of 1814 embodies the requests of the vestry itself, as contained in its petition, made at the time. The only three things they ask for, are the alteration of the title of the corporation, the exclusion of all outside of Trinity parish as corporators, and to be relieved from the obligation of making any inventory and account, except after the acquisition of additional property.

These three things are all embodied in the 1st, 2d and 6th sections of that law. The 3d, 4th and 5th sections, however, contain provisions which Trinity did not ask for in her petition. It is known that there was strong opposition to the law in certain quarters, and it is evident that these additional sections,—which provide for dividing the corporators, and for building, setting off and endowing new churches with competent estates,—were inserted as the palatable and popular features to enable the bill to pass. The other provisions were for the benefit of Trinity only. These were added, to show that the law would be a benefit to others also. It is evident, moreover, from the language used by Col. Troup, that when two members of the Council of Revision asked him for his reasons in support of the bill, they meant the reasons which he had previously urged in the Legislature, in what he himself alludes to as "his zealous exertions to procure the passage of the bill through the two Houses." This is evident, too, from the authoritative manner in which he declared such and such things to be the "objects of the bill." And no other explanation of those objects, so far as the 3d, 4th and 5th sections are concerned, is known to your committee to be extant. To argue against the authority of his representations, therefore, because the date of his pamphlet is subsequent to the passage of the law through the two Houses, is altogether inconclusive. The change of policy, therefore, which took place immediately after obtaining that law, and the non-fulfilment of the representations made to secure its passage, cannot be relieved from the construction placed upon them in the previous *report* of your committee.

Two points appear to demand a change in the existing law. At present, there is no practical responsibility to which the vestry can be held, as a security for the proper administration of their vast estate, except by means of inquiry through the Legislature. This, in its own nature, must be irregular, and open to more or less of delay, irritation and unsatisfactoriness generally. The courts of law are too expensive and too tedious to make it worth while for individuals to try their strength, in that mode, with a corporation worth millions. Nor does there appear to be any manner in which responsibility can be secured ecclesiastic-

ally, any more than civilly. Bishop Potter testifies that he has no power to supervise the grants of the vestry; that his assent is not necessary to the validity of their acts; that they make no report of their doings in money matters, either to him or to the convention of the diocese; that he is not cognizant of the internal or financial affairs of the corporation; that it isnot the practice of the vestry to consult with him in regard to the making of grants, and that he does not wish to be thus consulted; that he has taken care to have it understood that he can exert no influence in behalf of applicants; and that he is even afraid to propose plans of his own to Trinity, because of their debt. He testifies that his power is purely spiritual, and that it is only in case of charges of crime or immorality that the rector or any vestryman would be in anywise amenable to him in the way of discipline. The sole practical power of remedying any evil in the vestry, appears, therefore, to reside in the corporators, to be exercised at the annual election. And yet, even this measure of responsibility is now, and has been for a long time, wholly neutralized by the fact that the vestry never present any report whatever to the corporators, who, being thus kept in ignorance, enjoy a degree of satisfaction with the vestry, which leaves them without any motive to attend the polls.

As some real safeguard is, however, absolutely necessary for the wise and responsible administration of this immense estate, your committee would therefore recommend that the vestry be required to furnish to all their corporators, in print, by the 1st of February at the latest, a full and minute statement of the details of their income and expenditure during the year; what lots have been sold or relet, and on what terms; what grants have been made, and to whom; what bonds and mortgages are held; and what is the estimated increase or diminution in the gross value of the estate of the corporation; and also, that they be required to append thereto a complete and correct list of all the corporators of the parish. This will enable them to perform their duty with intelligence.

And this will appear to be the more necessary, when we consider the extreme change that has already taken place and is

still going on in the three congregations of Trinity parish, down town. Dr. Berrian testifies that, between 1840 and 1848, no less than 335 families and 70 individuals left the parish; and the same process has been going on with still greater rapidity since. He tells us that nearly all the persons of wealth and condition, even as high up as St. John's Chapel, have removed up town; that Trinity Church is almost entirely occupied by strangers, and the poor, only a very scanty remnant of its former congregation remaining; and that the same is true of St. Paul's, and in some degree of St. John's.

Dr. Haight describes the congregation at Trinity as made up of strangers, young men, transient residents, and the poor. Dr. Vinton testifies that the congregation at St. Paul's, is composed mainly of strangers, clerks, mechanics, artizans, porters, washerwomen, hucksters, and miscellaneous poor, making their living as daily laborers. Dr. Higbee says that these removals have "gradually and surely deprived Trinity and St. Paul's of their regular congregations, and parochial spirit, responsibility, and efficiency;" and that they "diminish and weaken, in a continually increasing ratio, the constituency of the corporation, thus destroying the equilibrium of the parish, and undermining its foundations as an institution of public charity." As an unavoidable consequence of this sweeping change, both in the number and the character of the corporators, it has been found impossible to "keep up the standing of the constituency;" and Dr. Berrian excuses the present state of things on the ground that in former times there was "a wider range than now for the choice of distinguished and intelligent vestrymen," qualified to administer so important a trust.

Dr. Haight, too, when testifying that the vestry have, in his opinion, done their best, adds, the important qualification, "as constituted for the last quarter of a century." It is also represented that the new chapel will preserve the parish from the total change which otherwise seemed impending, but from present appearances, the chapel will soon contain all that are left of the grade of corporators which gave this ancient parish its pre-eminence in olden times; and that a large addition will be made, indeed, to the number of corporators, from among the many communicants in the three churches down town—a number more than enough to out-vote the one small congrega-

tion of the chapel; but they will be from classes of the community whose general standing and intelligence will not qualify them to exercise properly the control of the ballot box over the administration of so vast and delicately complicated a trust; and that it is absolutely necessary, therefore, that the constituency should be reinforced from that class to which it originally belonged.

A repeal of the law of 1814, would effect this; but from deference to the opinions of the two Bishops of the Protestant Episcopal church in this State, and others of the witnesses, who anticipate great strife and confusion from a simple repeal of that law as a whole, your committee would recommend a modification of it in only two particulars, leaving all the rest of the law to stand as at present. The first is, the amendment of the second section, by restoring the substance of the third section of the Law of 1784. And the second is an additional section to the present law, providing for an annual report to the corporators of the parish.

In conclusion, therefore, your committee ask leave to bring in a bill, in conformity with the recommendations contained in the above report.

Respectfully submitted,

MARK SPENCER,
JAMES NOXON,
J. H. RAMSEY.

AN ACT

To amend an act entitled "An act to alter the name of the corporation of Trinity Church, in New-York, and for other purposes," passed Jan. 25, 1814.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

SECTION 1. The second section of the act entitled "an act to alter the name of the corporation of Trinity Church, in New-York, and for other purposes," passed January 25, 1814, is hereby so amended as to read as follows:

§ 2. Every male inhabitant of the city of New-York of full age, in communion of the Protestant Episcopal Church in th State of New-York, who shall hold, occupy, or enjoy a pew or seat in any Protestant Episcopal Church in said city, in union with the convention of the diocese of New-York, or shall have partaken of the Holy communion therein, wi'hin the year next preceding any election for Church wardens and vestrymen, to be certified by the rector, senior warden, or clerk of the vestry of such Church, shall be entitled to vote, at all elections for Church wardens and vestrymen of this corporation.

§ 2. The said act of January 25, 1814, is hereby further amended so as to read as follows:

§ 7. " The vestry of Trinity Church, shall once in every year, on the first day of February, furnish to their corporators a printed statement of the affairs of the corporation, including the details of annual income and expenditure, specifying what lots have been relet or sold, and for what amounts, and how many remain; what grants, loans, or stipends have been made, and to whom; what bonds and mortgages are held, of every sort; with the estimated change in the gross value of the corporation estate, if any; and appending also the full and correct list of all the corporators who will be entitled to vote at the easter election then next ensuing.

§ 3. This act shall take effect immediately.

TESTIMONY

TESTIMONY INTRODUCED ON THE PART OF THE VESTRY.

FRIDAY, *February* 13, 1857.

Present—Senate committee—Senators Spencer, Noxon, and Ramsey. The trustees of Trinity Church were represented by Judge Parker, and O. Meads, Esq.

Rev. Benjamin I. Haight, called and sworn.

Ques. What means have you of being acquainted with the affairs of Trinity Church? A. I have been one of the ministers of Trinity Church for the last ten years, and for nearly two years last past have been the assistant minister assigned to Trinity Church, and have had more especial charge of the parochial work connected with that church. I have lived in New-York all my life, with the exception of about three years; for nearly twenty-three years have been exercising the functions of my ministry in the city of New-York.

Q. It is stated in the report of the select committee, at page seven, that it appears in the evidence that Trinity Church has never at any time established or endowed any institution of charity or benevolence, even for her own poor. Is this correct? A. I know of several institutions of charity or benevolence which have either been established or endowed by Trinity Church for

the poor. 1st. The charity school originally opened in New-York, in Trinity Church, one hundred and forty-eight years ago, and which has derived its support mainly, especially since the Revolution, from Trinity Church, and in which a large number of poor children have been, not only educated, but clothed, and partially supported. I have been the secretary of the board of trustees of this school, now known as the New-York Protestant Episcopal Public School, for about twenty years last past. Its present available endowment has arisen, in large part, from grants from Trinity Church. A portion of the endowment arose from legacies of individuals. [This statement does not include a bequest of landed estate which has not yet become at all available for the purposes of the school.] For the last twenty years there have been constantly sixty-four poor boys on the foundation, who have received a superior education gratuitously, been provided with the necessary books, and have received part of them, $50 per year, and part of them $30 per year, (there being two departments,) towards their clothing and support. In the appointment of scholars, preference is given to the children of deceased clergymen and of widows. One of the last appointments made was that of a son of a clergyman, recently deceased, in the neighborhood of New-York, who left a wife and several children in dependent circumstances. I mention this as an illustration of the mode in which the charity is administered. Another institution established and endowed by Trinity Church, is the Society for the Promotion of Religion and Learning in the State of New-York, of which I happen to have been a trustee for a number of years. The income arising from its endowment has been expended in large measure, in aiding in the support of indigent young men preparing for the sacred ministry. It also contributes annually $1,600 to the support of the Hobart Free College, Geneva, having, in addition thereto, made a grant in gross of $7,000. I regard this society as one of the most important charitable institutions we have in the State. In Hobart Free College the education is gratuitous entirely, and open to all classes of citizens without reference to religious opinion. Within the last two years several arrangements have been made by the vestry of Trinity Church, having special reference to the

education and general welfare of the poor. About the 1st of December, 1855, a parish school was opened in connection with St. Paul's chapel in which fifty poor children have constantly been received and taught. In connection with Trinity Church, of which I have the more especial charge, a number of arrangements for the benefit of the poor have been entered into within the same period. By Trinity Church, I mean the old parish church in Broadway. A colleague has been assigned me to aid in parochial duty with especial reference to missionary work among the poor in the lower part of the city below Fulton street; in addition to which, two lay visitors are engaged among the poor, through whose instrumentality mainly, a large and flourishing Sunday school has been created and sustained in that church, composed almost exclusively of poor children; out of two hundred and twenty there may be five who are not poor children; there has also been established at Castle Garden, which is within my district, an agency having especial reference to the poor members of the church of England and Ireland who are landed at that depot. I deemed it my duty as the assistant minister, more especially in charge of Trinity Church, as soon as the Commissioners of Emigration obtained possession of Castle Garden as a receptacle of emigrants, to make application to them for permission to visit such emigrants, as above described, on their landing, with a view to their benefit. Permission was granted by the Commissioners, and on my application, through the rector, to the vestry of Trinity Church for the means of supporting this agency, the necessary amount was at once voted; it is now the second year of the agency; the sum appropriated the first year was $600; I have asked for $500 for the current year, and shall ask for more if necessary. In regard to my own parochial labors in Trinity parish, during the whole term of my connection with it, at least three-fourths thereof have been among the poor. During the last conventional year there were nearly one hundred baptisms of children in Trinity Church itself, of whom not more, I think, than three were children of a different class, that is to say, all were children of the poor except three. A detailed report of the services and parochial work of Trinity Church, was made by me to the rector in September last

at his request, and by him communicated to the vestry along with the reports of other assistant ministers, and may be found in the appendix to the report of the rector, which has been printed for distribution. In connection with St. Paul's, St. John's and Trinity chapel, there are also parochial arrangements having reference to the poor, with the details of which I am not, however, sufficiently acquainted to speak, they being in the charge of other assistant ministers of said parish. St. George's chapel, Beekman street, has been sustained by Trinity Church for several years past as a mission church ; the resident population in the neighborhood being exclusively of the poorer class. The same remark may apply to the resident population generally in the lower part of the city.

Q. What number of ministers are there in Trinity parish? How are they employed, and what are the character and number of the congregations which attend the several churches in that parish? A. There are nine clergymen in Trinity parish—the rector and eight assistant ministers. Two of the assistant ministers are engaged in parochial duty in connection with each of the churches, the rector having the general oversight of the parish, and performing duties in all parts thereof. The congregation at Trinity church is large, and composed in great part of strangers, transient residents, young men, clerks, etc., and the poor, upon none of whom is any tax, in the form of pew rent or otherwise, laid, for the support of the ministrations of the church. Of the character and number of the congregations in the three chapels—St. Paul's, St. John's, and Trinity chapel, I cannot speak with as much certainty. The congregation at St. Paul's appears to me to be very similar to that of Trinity, and constantly becoming more so. In St. John's chapel, an arrangement has been made, I believe, by which a certain number of free sittings have been provided, with special reference to the poor ; and in Trinity chapel there are from one hundred and fifty to two hundred free sittings, in the best parts of the church, which are generally well filled. At the third or night service in Trinity chapel, which is continued for several months in the year, and on all other occasions except the morning and afternoon service on Sundays and several special days, all the seats

in Trinity chapel are free. This chapel and Trinity church are open daily for morning and afternoon service throughout the year. It is computed there are from 1,200 to 1,500 free sittings in the parish.

Q. Have the contributions for charitable and religious purposes in the down town congregations of Trinity parish been decreasing of late years, and if so, how do you account for it? A. My impression is that they have decreased. In Trinity Church our collections, with the exception of the contributions of a very few persons, are small, owing to the fact that the great bulk of the worshipers are either strangers or persons in very moderate circumstances; the wealthier portion of its former congregation having removed to the upper part of the city.

Q. What church accommodations are there down town, below the Park, besides those afforded by the churches of Trinity parish? A. I know of but two other places of worship; the Dutch church, in William-street, and the Methodist church, in John-st. In consequence of the removal of the other churches, the clergy of Trinity parish are not unfrequently called upon to minister to the people of several protestant denominations. Among the candidates presented for confirmation in Trinity Church, last spring, a large proportion were persons who did not originally belong to the Episcopal church. No call for ministerial service, from any quarter, is ever declined by the clergy of Trinity parish, and special arrangements have been made at Trinity and St. Paul's churches for convenience of access to the clergy for such duties. For example, Trinity church is open throughout the entire day in each day of the week, and the clergy are in attendance in the vestry room at stated hours, to answer any calls for their services that may be made. In this way, the sick, the dying and the afflicted, can always be visited by a clergyman within a short period. By far the greater part of the work thus performed is among the poor.

Recess until 4 P. M., Saturday.

SATURDAY, *Feb.* 14, 4 P. M.

Present, the Senate Committee, Messrs. Spencer Noxon and Ramsey. Judge Parker and O. Meads, Esq., on behalf of the Trustees of Trinity Church.

Rev. Benjamin I. Haight, testimony continued:

Q. Are there any other arrangements in regard to the poor in Trinity parish, in addition to those you mentioned yesterday? A. I think that one of my answers yesterday included all the arrangements in general terms. With the arrangements at St. Paul's, St. John's and Trinity chapels I am not thoroughly familiar. A sketch of them will be found in the recent report of the Rector to the Vestry of Trinity Church, which has been published, and to which I yesterday referred. I will here add, that the several parochial arrangements, having reference to the poor in Trinity parish, which I have described, and which were commenced about two years since, I regard not as a complete system, but as only the beginning of a system of parochial arrangement. When I entered upon my present duties, it was with the distinct impression on my part, grounded upon my knowledge of the views of the Rector and the Vestry, that I was not to be simply a parochial minister at Trinity Church, in the ordinary acceptation of that term, but that I was also to originate and carry forward various plans of a missionary character, having reference to the working classes and the poor in that district. I have acted upon this presumption, and have thus far received from the Rector and Vestry constant encouragement and support; and I have no doubt but that encouragement and support will continue to be extended to me, with reference to any plans which I may present for the moral and spiritual benfit of the inhabitants in the lower part of the city.

Q. The report states, (p. 8,) that as to free churches, it does not appear, from the report of Trinity Church, that she has ever built any. What can you say on this subject? A. The statement in the report is technically true, but it does not convey to my mind an accurate representation of the subject; for in consequence of the building of the new Trinity chapel, and the

arrangements made by the Vestry with regard to the pews in that chapel, Trinity Church and St. Paul's chapel have already in great part changed their former character, and from pewed churches, as they are termed, have become virtually free churches, so that, although Trinity Church has not built, technically, two free churches, she has, so to speak, created two. The foregoing remark applies in part also to St. John's chapel.

The arrangements in regard to the pews at Trinity Chapel, to which I have referred, were these: The Vestry offered to each party holding a pew in either of their three down-town churches, who might be desirous of obtaining a pew in Trinty Chapel, to credit him with the amount of the rent of his pew down town on condition that, while he occupied the pew in Trinity chapel, the Vestry should be entitled to the use of the pew down town. The pews which thus came into the possession of the Vestry have been thrown open by them for general use, without charge. As the number of pews of this class is quite large, as I have before said, Trinity and St. Paul's have become, in a large measure, free churches and St. John's measurably so; and these churches are of such a character, architecturally and otherwise, as to secure the attendance of the poor to a much greater extent than has been found practicable in humbler edifices.

Q. Has Trinity Church, clergymen employed as ministers at large whose special duty it is to look after the spiritual wants of the poor and destitute among the "inhabitants of the city of New-York, in communion of the Protestant Episcopal Church?" A. When about two years ago the Vestry increased the number of assistant ministers, three were added, whose special duty it was to look after the spiritual wants of the poor and destitute; one of these has been assigned by the Rector to do missionary duty of this class, in connection with each of the three down town churches, and has been constantly occupied therein from that time; and from the nature of the cases, three of the other assistant ministers who have been assigned to the said churches have been called upon for a large share of this sort of duty. In my own case, fully three-fourths of my parochial work has been among the poor and destitute.

Q. What do you mean by missionary duty? A. I mean the performance of ministerial work among the poor and destitute who are not ordinarily found within our churches, and who have to be in many cases sought after.

Q. In the report of this committee, page 24, it is said of the congregation of Trinity Parish that their four congregations united do less, as is testified, than some single independent congregations in this same city, with little or no endowment. What have you to say on this subject; and if it is so, is it chargeable at all to the administration of the affairs of Trinity Church, by the Vestry? A. If the statement referred to, be true, it is not to be wondered at, inasmuch as two of the congregations of Trinity Parish are now mainly composed of strangers, transient persons, the working classes and the poor; while even in regard to the other two congregations it may be affirmed, that neither of them, not even that of Trinity Chapel, compares in point of individual wealth with several other independent congregations. There has been a very great change, of late years in the down town congregations, in consequence of the removal of persons of substance, to the upper parts of the city. I can see no connection whatever, between the alleged smallness of the contributions of the members of Trinity Parish and the administration of the affairs of the Corporation. If there be a fault in the matter, it cannot justly, be laid to the charge of the Vestry; it must rest with the clergy and the people.

Q. Are you cognizant of any measures taken from time to time for the purpose of ascertaining who have been added to the corporators of Trinity Parish, and what difficulties are there in the city of New-York, in ascertaining who ceased to be corporators? A. I have been annually asked by the rector to make a return to him, of all such male persons who have to my knowledge become communicants in our parish, in order that he might add them to the list of corporators. In no case that I remember, have I been asked by any individual who had thus acquired the rights of a corporator, to return his name, but the return has been made at the desire of the rector; there is great difficulty in the city of New-York in a large and miscellaneous

parish like ours, in ascertaining who of the male communicants have removed and the time of their removal; the same difficulty is felt also in regard to pew holders ; sometimes there are temporary and sometimes permanent absences without notification to the rector or any of the clergy.

Q. It is said in the report of this committee (page 24), that there is so little interest in the vestry elections of Trinity parish, that in eight out of the past ten years, an average of hardly one in ten of the corporators cared to appear ; is this state of things peculiar to Trinity parish, and does it indicate "torpor," imputed in the report? A. A like statement might be made, I apprehend, in regard to every parish in the city of New-York ; I was rector for nearly ten years of a large parish in the city, All Saints, which numbered from 100 to 150 corporators ; I never saw at any election, having presided at all, of wardens or vestrymen, more than four or five voters, except on one occasion at a period of great excitement in the church, when there were about thirty present ; I do not consider the non-attendance of the corporators on these occasions, as any evidence whatever of a want of interest in parish matters or as a sign of "torpor," but rather as a mark of their entire satisfaction with the administration of the parish. In the case of All Saints church, the parish was united and highly prosperous.

Q. It is stated in the report of this committee, p. 21., that the effect of this system, (that is, the system by which Trinity Church has contributed to other parishes, wholly in the way of pecuniary grants, made either in specific sums or in annual appropriations, terminated at the pleasure of the Vestry,) as appears from the evidence, has been to injure instead of promoting the independence of the parishes thus aided. Is the statement correct that the making pecuniary grants in either of such forms, or secured by mortgages, has had that effect? State, also, what effect, if any, has aid in these forms had upon independence of speech and freedom of action on the part of parishes and clergymen thus aided, where they meet in the diocesan conventions and other church associations, and where there are diversities of opinion as to matters of morals and doctrines? A. I do not think that the aid bestowed in any of the forms mentioned, has

had the slightest effect upon the independence of speech and freedom of action of the clergy or laity of the parishes aided. I have had some opportunity of noticing the course pursued by clergy and laity in our diocesan convention, having been for twenty years Assistant Secretary and Secretary of the same, during the greater part of which time there prevailed great diversities of opinion. In looking over the list of parishes whose churches have been mortgaged to Trinity Church, I find eight, the clergy and lay delegates of which, for a series of years, on all leading questions spoke and voted differently from the Rector and lay delegates of Trinity. Two of these are mortgaged for $25,000, two for $20,000, one for $5,000, the other three for smaller sums. So, also, in regard to the churches which have received grants of land and money, or annual stipends. I find nearly thirty which have taken the same independent course in convention, without regard to the course of Trinity. My opinion of the clergy and laity of the diocese of New-York is such that I do not think it would be practicable for any corporation to buy their opinions or their votes. Of the churches last referred to, six received gifts of money and land, and twelve received gifts of money alone, two received gifts of land and a stipend, three received gifts of land alone, six received gifts of stipend alone. My knowledge of the votes of the lay delegates and clergy of the several parishes is derived from the fact that, for a series of years it became my duty at every convention to call the ayes and noes on very many questions.

Q. In applications for aid, has Trinity Church, in your opinion, favored those whose party views were similar to her own, or has she refused aid on the avowed ground that the views of the applicants were not coincident with her own? A. I do not believe that the question of church politics has ever entered into the distribution of the gifts of the vestry of Trinity Church, I never have heard of any application for aid which was refused upon the ground that the parties making it differed in theological or ecclesiastical opinions from the rector and vestry of Trinity Church.

Q. What proportion of the whole number of Episcopal churches in the city of New-York have received aid, in some form, from

Trinity Church? A. There are about fifty Episcopal churches in New-York city, and I think all of them, except two, have received aid from Trinity Church. Of these two, one, the Church of the Holy Communion, was built by one person, and the other, the Church of the Incarnation, was built by the wealthy congregation of Grace Church.

By the committee:

Q. What appropriations have been made by Trinity Church during the last three years previous to April, 1855, to institutions of charity, benevolence, or learning, in the city of New-York? A. I do not remember of any made within that specific period. Those that I have already named, were made either before or after the period mentioned.

Q. What means have you of knowing what motives govern Trinity Church in her grants to other churches? A. I have been connected with Trinity Church as one of the ministers for nearly ten years, and have been in the habit of frequent converse with the rector and several of the leading vestrymen in regard to their benefactions.

Q. Have the clergy, other than the rector, any voice or vote in making gifts or grants? A. The assistant ministers are not members of the vestry, and therefore are not entitled to vote upon such questions. Whatever influence they may have in such grants arises from their official relations to the vestry.

Q. When you speak of aid to churches, do you include those which give mortgages for what they receive? A. I do, because it is perfectly well understood that those mortgages are not to pay interest, and are never to be collected unless under very extraordinary circumstances.

Q. Do you or do you not know that when such mortgages are renewed, the accumulated interest is added to the principal? A. I have no knowledge on this particular point, but have never heard or known that the payment of any interest has been exacted. I have never heard of an instance where the accumulated interest has been added to the principal.

Q. You spoke of new arrangements having been made within the past two years, can you fix the time more definitely? A. I was assigned to my present position early in June, 1855.

Q. Are there not in Trinity Church and all her chapels some paying pews? A. There are.

Q. Is there not, sir, a great want of churches in certain parts of the city of New-York? A. There is undoubtedly a want of church accommodations in the city of New-York.

Q. Is there a single Episcopal church in the 4th, 6th, 13th or 14th wards, in the city of New-York? A. I cannot answer that question without a map of the city.

Q. Will you tell us, sir, when the present Trinity church was built? A. It was consecrated in 1846.

Q. Can you tell us what it cost? A. I do not remember the cost.

Q. When was Trinity chapel built? A. It was consecrated in 1855.

Q. What did it cost? A. $227,000, according to the report of the vestry.

Q. How many persons will Trinity church and Trinity chapel seat? A. Trinity church will seat, as at present arranged, about 1,200; Trinity chapel about 1,000 persons. I have seen 2,000 persons in Trinity church on special occasions.

Q. In your opinion, has the Episcopal church kept pace with the increase of population of the city? A. It has not.

Q. Do you consider that the church accommodations in the city have kept pace with the increase of Episcopalians in the city? A. I think it has, and more; inasmuch as the increase of population of the city of New-York has been very largely from foreign countries, from New England, and other parts of the United States, where the members of the Episcopal church have not been numerous.

Q. Do you think church accommodations of all denominations have increased proportionately with the increase of population? A. I do not think that it has fully. It has measurably.

Q. Do you know, sir, whether St. Matthew's church was shut up and offered for sale? A. I have heard so.

Q. Was Zion church, near the Five Points, sold to the Romanists? A. Yes, sir, it was; the congregation having removed up town and built another church.

Q. Was Christ church, in Anthony-street, closed and sold? A. It was, under the like circumstances.

Q. Were the three last named churches Episcopal churches? A. They were.

Q. In the cases last mentioned, where the churches were sold, were churches required for the purpose of accommodating Episcopalians? A. I think not.

Q. Do you know whether St. Matthew's church made application to Trinity for aid? A. I do know that she made application, and that she received aid, and that the rector addressed two letters of thanks, on behalf of the vestry of St. Matthew's, for such aid.

Q. How long was this before said church was closed? A. I don't know.

Q. Do yon know that Trinity church refused her aid? A. I have heard so.

Q. Can you state the number of Episcopalians in the city of New-York. A. No, I cannot.

Q. Do you know the number of Episcopalians that belong to Trinity and her chapel? A. From five to six thousand, including men, women and children.

Q. What proportion is that of the whole number of Episcopalians in the city, as near as you can judge? A. I cannot answer this question, for want of sufficient data. I will examine the

subject and give an answer. I estimate the number of Episcopalians in the city of New-York at from 40,000 to 50,000.

Q. Could Trinity church now rent her pews in the lower down town churches? A. She could not, except in a few instances.

Q. Did not that fact necessarily compel Trinity to make those churches free? A. No; for she could have done as Grace church, St. George's church, Christ church, Zion church did; sold her churches and built new ones up town. But preferring to keep her churches down town, in the changed condition of the lower part of the city, it would not have been practicable to have rented her pews.

Q. Do you know whether the other clergy attached to the chapels of Trinity make annual return of the new male communicants to the rector? A. I presume that they do; I am asked as one of the clergy, I presume he asks the others.

Q. Can you state whether the clergy who make these returns from the various chapels, are allowed to see the returns thus made? A. I have no doubt but they would if they asked it.

Q. Have you ever seen them, previous to the report of Trinity church to the Legislature in 1856? A. I cannot say whether I have or not; I never had occasion to look at the list.

Q. Do you know whether Trinity church has ever foreclosed any of the mortgages taken for grants made by her? A. I do not.

Q. What does it cost Trinity church to support the two lay assistants you spoke of? A. Their present stipend is $150 each.

Q. Of whom does the vestry of Trinity church consist? A. The rector, two church wardens, and twenty vestrymen.

Q. What other officers has Trinity church besides the members of the vestry and her clergymen. A. A comptroller and clerk of the vestry, both of whom are members of the vestry, a collector, and one clerk in the office.

Adjourned to 3½ o'clock, Monday P. M.

MONDAY AFTERNOON, *February 6th*, 3½ o'clock P. M.

Present—Senate Committee—Senators Spencer, Noxon, and Ramsey. Counsel as before, Judge Parker and O. Meads, Esq.

TESTIMONY INTRODUCED BY THE VESTRY.

Testimony of Rev. Benjamin I. Haight, continued.

Q. Do you think Trinity Church has done its utmost to make the capital of the property of that corporation, available for the founding, support, or promotion of religious, charitable, or educational instructions or purposes? A. As the result of many years observation, during the last ten of which, I have been frequently in converse with the Rector and several of the senior members of the corporation, in reference to the appropriation of their funds to religious, charitable, and educational purposes, I answer that I believe the Vestry has always been solicitous to make their property as available as possible for these great purposes, and, that when they have declined applications for benefactions, or refrained from entering upon, or prosecuting any enterprise brought before them, either by members of their own body, or by others, it has not been from any want of interest in schemes and plans of christian benevolence, or with any view of increasing their own estate, but solely from prudential considerations mainly growing out of their heavy debt, which has accumulated solely from their pecuniary grants. I do not believe that any other body of intelligent and prudent christian men of the same number, and chosen in the same way—that is, by a popular constituency—would have done more than the Vestry of Trinity Church, as constituted, for the last quarter of a century.

Q. Will you name the free Episcopal Churches in the city of New-York? A. All Angels, Epiphany, Holy Comforter, Our Saviour, Holy Communion, Holy Evangelist's, Holy Innocents, Holy Martyrs, Nativity, St. Cornelius, St. John the Evangelist's, St. Mary's, and St. Michael's; the foregoing have church edifices proper. Besides these, there are the following free congregations worshiping in halls: the Messiah and St. Ann's. Besides these, the following are at present suspended: Good Shepherd,

temporarily, the church being constructing ; St. Barnabas, St. Matthew's, and St Simon's. The former free church of St. Jude has been merged in the church of St. John the Evangelist.

By the Committee (a map presented):

Q. Are there any Episcopal churches in the 4th, 6th, 13th and 14th wards of the city of New-York? A. There are none.

Q. In which of these wards was Zion church situated? A. In the 6th.

Q. After viewing that map, do you still say that Zion church was not needed there? A. Such a question was not put to me. The question was whether it was required for Episcopalians in that vicinity. I answered that I thought not, and I think so still. If I had been asked whether it was not desirable that there should be mission churches in that and the other wards, for the purpose of supplying the ministrations of the gospel to the destitute of all classes and denominations, with a view to their spiritual benefit, and gathering them into the Episcopal church, I should have answered that I did think it desirable.

Q. What would be the average number of persons that the free churches you have named would accommodate? A. From 450 to 500 each.

By Counsel for Trinity Church :

Q. Though there are no Episcopal churches in the wards named, are there Episcopal churches close upon their confines? A. In the vicinity of the 4th ward there are two large churches, in the vicinity of the 6th there is one, in the vicinity of the 13th there are two, and in the vicinity of the 14th there are two.

Rt. Rev. Horatio Potter called and sworn :

Q. What is your place of residence, and your office in the Protestant Episcopal church? A. My place of residence is in the city of New-York, my office is Provisional Bishop of the diocese of New-York.

Q. What opportunities do your official position and duties afford you for obtaining information in regard to the condition,

wants and interests of the various congregations in your diocese? A. It is made my duty by canon to visit periodically all the parishes of the diocese and inquire into their condition, and to maintain at all times general superintendence over the churches of the diocese. To which I may add, that persons belonging to the several parishes naturally come to me for advice and direction.

Q. Has the law of 1814 in regard to Trinity Church been acquiesced in or not? I think it has been generally; no person has appeared in the courts to object to its constitutionality; had there been any real confidence in the existence of a right in members of other and independent congregations to be corporators of Trinity Church, undoubtedly that right would have been asserted and maintained in the courts, both before and after 1814; for more than thirty years after the passage of the law of 1814, no attempt was made to procure its repeal; there might be cases of individual discontent, as there will be with things most just and reasonable, but they were of no account compared with the general acquiescence and the absence of all formal attempts, either in the courts or before the Legislature, to object.

Q. What, in your opinion, would be the effect of throwing open the corporation of Trinity Church, and allowing all persons in New-York, in communion with the Protestant Episcopal church, to become corporators in that body? A. The effect would be disastrous in very many ways; in the first place, as it would be, in my opinion, a violation of the original meaning and intent of the charter, a meaning and intent recognized and admitted for fifty years, it would constitute an act of public fraud and immorality, so gross as to be of evil influence throughout the whole country; but besides that, the immediate operation in the city of New-York would be extremely injurious to the peace and well being of the church; all the parishes in the city would be brought into conflict with Trinity Church and with each other. Trinity Church is a parish like any other in the city, except as to the amount of its wealth. Persons who were corporators in an independeet parish, having its own peculiar interests and objects, would be corporators also in Triniy church,

where they would be present by their representatives to embarrass and control her parochial operations, and to take from her her means for their own purposes; such foreign corporators might, and I believe would have selfish reasons for desiring to cripple the parochial work of Trinity Church, while they sought to build up rival churches of their own.

Under such a system, Trinity Church would soon cease to be a parish, in the ordinary sense of the term. Her parochial work would be reduced and gradually ruined; and she would become the mere holder of a fund, a mere financial body, for whose wealth many thousands of persons, cut up into conflicting and rival sections, would be scrambling. The annual elections would present a scene most grossly unbecoming, highly injurious to the character of the church and to the interests of religion, for those elections would be sure to be severely contested elections, where several thousand persons would have a right to vote, and where there would be great temptation among the outstanding congregations to swell the number of their voters, by all sorts of means. There would be a temptation to unfair combinations among different parishes and sections of the city to procure grants in favor of each other. All this would be a perfect anomaly in the Episcopal church. I know of no cases in which the same person is corporator in the different parishes, the parishes being in a position to be rivals to each other. There are instances, probably, in which a person is a corporator in a city parish and also in a rural parish, where he has his country residence; but this is attended with no serious evil. In every system, whether of the family, the State, or the church, where a person is present within, to influence, to control, he is supposed to be a member of the system, with a kindly interest in it, with a generous devotion to its welfare, and subject to all its laws and authorities. But if the corporation of Trinity Church were thrown open, you would probably have vestrymen present to vote away its money, to control its counsels, who were enemies and aliens; interested in other parishes, but not in Trinity Church; not subject to its rector, not under its religious influence, but present only to vex and harrass. This is not only a

violation of all the principles of the church, which require that every person present in a parish with any rights and privileges, shall be amenable to the spiritual authority of the rector, but is a violation of common sense, which requires that those who vote or rule in a body, shall be bona fide members of it, and owe it a hearty allegiance.

Q. What is your view in regard to the course of Trinity Church in rebuilding Trinity Church at the head of Wall-street, and in building Trinity Chapel, in Twenty-fifth-street? A. I think it was a very proper course. It was natural they should desire to retain the old site down town, so long endeared to them, and it was very important that the lower part of the city, which was in a way to be abandoned by all the other Episcopal congregations, should not be abandoned by them. They owe it to the lower part of the city to maintain themselves there, among the poor, and their property enabled them to do so. In regard to the building of Trinity Chapel, up town, many of their old parishioners had moved far up town, with only very moderate means, in many cases, and it seemed the duty of Trinity Church to follow them and provide for them, and to seek to retain them as her parishioners. The erection of Trinity Chapel was therefore a proper measure. As to the costly character of the two edifices, I consider that Trinity Church only did her duty in making them models of ecclesiastical architecture. Her wealth had been created mainly by the growth of the city. She therefore owed to the city some contribution in the way of beautiful and magnificent edifices. And with her wealth, she owed it equally to the character of her own communion. Had Trinity Church, with its means, limited itself to the erection of buildings of a moderate cost, I have no doubt the parish would have been severely censured, both by the church and by the community generally. As a general thing, I believe a few costly churches are of great utility to the interests of religion. I have no doubt that Westminister Abbey has, in the course of ages, been worth to the influence of Divine Truth in the world, vastly more than all that it ever cost.

Q. What is your opinion of the effect of the course of Trinity Church, in giving her aid to churches in the form of loans upon mortgages, rather than in the form of absolute grants? A. Those loans were absolute grants in reality, nobody ever supposed that the interest or the principal would be called for by Trinity Church. They never have been, in a single instance, although the cases have been very numerous, in which land mortgages have been given. When I consecrate a church, I always wish to know whether there be any debt. I never regard a mortgage given to Trinity Church, in the light of a debt. I have never perceived, I do not believe, that such mortgages, in any way affect the independence of ministers, or laymen. It is very common indeed, to see the minister, and laymen of a Church, subject to a mortgage, voting against measures favored by Trinity Church. In convention, I doubt whether any one remembers or reflects, whether mortgages exist in particular quarters or not. The effect of these mortgages has, I have no doubt, been important in preventing the property of churches from being sold and alienated from their sacred use. And this, I have always understood, was the sole object of Trinity Church in requiring them.

Q. St. Matthew's Church in New-York has been recently closed. Was it the duty of Trinity Church under the circumstances, to have preventeil that result? A. I cannot say, that, under all the circumstances of the case, I would have advised Trinity Church to do differently from what she has done.

Q. What is your view of the past management of Trinity Church in relation to the poor? A. Trinity Church has done a great deal for the poor in many ways—She has provided free education for the poor, in schools and colleges—She has assisted in the erection of between one and two hundred (nearly two hundred) churches in the State. To say the least, a very large portion of all these grants must be considered as assistance granted to those who had not the means of doing all for themselves. She has granted annuities in many cases to aged clergymen and to the widows and orphans of deceased clergymen. She has schools for poor children connected with several of her churches and chapels. And finally, all her churches, down

town, Trinity Church, St. Paul's, St. John's and Old St. George's, supported by her, are, to a very large extent, in the nature of a free provision for the poor. And besides these, there are several other churches, situated in districts much occupied by the poor, which are largely assisted by Trinity Church.

Q. It is alleged that in some districts of New-York there is a want of adequate religious provision for the poor; can you state any facts bearing upon this matter? A. Some portions of the city are chiefly occupied by Germans; other inhabitants remove from those sections. There are consequently fewer persons than we might at first suppose capable of being gathered into Episcopal congregations. There may be, and probably is, after all, a deficiency of church accommodation, but it is not as great in some quarters as it seems to be.

By the Committee:

Q. Do you think in seeking to retain the parishioners in Trinity chapel, it was right to seek to cut them off as corporators? A. I have not understood that it was contemplated by Trinity church to cut off her parishioners as corporators. In the abstract I should say it would not be right to do so. I suppose it was intended to prevent a rush of strangers from coming in and making themselves corporators from interested motives.

Q. Did you ever see the lease under which the pews in Trinity chapel were leased? A. I have not.

[Lease shown the witness.]

Q. After examining the lease, do you not think it would cut them off as corporators? A. It seems to do so, sir.

Q. What appropriations were made by Trinity Church, for three years previous to April 1855, to institutions of charity, benevolence or learning in the city of New-York? A. I have been in the city of New-York only a portion of that time, about a year and three or four months, and I am only generally cognizant of the fact that Trinity Church has been continually making grants to one object and another, without fixing my

attention to any in particular. I cannot say whether the grants here referred to are included in the grants that have been made.

Q. Can you mention any appropriations of the kind spoken of, made at any time, and if so, at what time, and what were they? A. I know that grants have been made to Columbia College and I believe to Trinity school. I am not able to answer fully; cannot specify the time. I may be permitted to say that my attention has been more particularly directed to grants at large for church buildings than to those objects.

Q. Can you say that you know of any such appropriations, made within the last ten or twenty years? A. I cannot say that I can.

Q. You answer the first question that the law of 1814 has been acquiesced in; has it been by the church in the city of New-York generally, outside of Trinity? A. My impression is, that until within a recent period, twelve or fifteen years, it has been.

Q. During that twelve or fifteen years, has not the great body of the Episcopal church, outside of Trinity, in the city of New-York, been dissatisfied with the law of 1814? A. I should not think so; but, as I said before, my acquaintance with New-York, until within a year or two, has been only a very general one, and my opinion is partly formed from what I have known myself, and partly an inference from the absence of any formal attempt to controvert the law.

Q. Previous to the law of 1814, did, or did not the inhabitants of New-York, in communion with the Protestant Episcopal church, outside of Trinity, exercise and enjoy the right of voting for wardens and vestrymen of Trinity church? A. I have always understood that they did not.

Q. Do you not understand that right to have been guaranteed under the charter to those in communion with the church, and not belonging to the parish of Trinity church, in the city of New-York? A. I do not. I may add, that the charter of my own late parish, St. Peter's, Albany, is in the same terms, and was

never held to guarantee rights to any one outside the parish. When the second congregation was formed, St. Paul's, in this city, (Albany,) St. Peter's church, having such a charter, had property, to which the members of St. Paul's church never set up any claim.

Q. What difficulties would arise in each of the Episcopal churches in the city of New-York sending a delegate to a convention to choose wardens and vestrymen to take care of the fund now administered by Trinity church? A. I think it would be possible to suggest many difficulties of detail. But I have a general answer. The church is governed in accordance with long tried, well settled, traditional principles and practices, the precise nature of which is thoroughly understood from long experience. The system suggested would be an entirely anomaly in the church, both in this country and in England, and I should think a very dangerous one to adopt.

Q. What has the government of the church to do with the administration of this fund? A. The church knows of no distinction between the administration of church funds, and matters purely spiritual. They are all part and parcel of the same system. She does not know of money in any secular sense. I may add, in the case of every known church in this country and in England, the same body that regulates the spiritual concerns of a parish regulates also its church fund as a religious act.

Q. Is not the administration of this fund entirely and absolutely separate from all the religious and ecclesiastical care of the church, as a religious society? A. I think not.

Q. Wherein does she exercise any control? A. The immediate disposal of this fund is ordered in the presence of and by the rector, wardens and vestrymen of the parish. They are both immediately responsible to me as the bishop of the diocese, and are amenable to the church of this diocese assembled in convention. I do not mean, however, to be understood that I supervise the details of appropriations, or that my assent is essential to the validity of any grants by the vestry.

Q. Is not the care of the bishop, rector, wardens and vestrymen, theoretical, and the practical care of this fund entrusted to a committee of the wardens and vestrymen? A. I think the care of the bishop, rector, wardens and vestrymen, is not theoretical, but practical, though the bishop, of course, is not a member of this body, and has only a general oversight over the affairs of the church. As in any large body, which in this case amounts to twenty-three persons, there is a sub-committee which, however, takes cognizance not merely of money matters, but of matters bearing upon the spiritual well-being of the parish, and which committee is appointed for the convenience of arranging and preparing business for the full meeting of the vestry, where it is deliberately passed upon. And I have to say, furthermore, that the care of the bishop and the rector is a reality, inasmuch as if the members of the vestry violated their duty they would be subject to be admonished and disciplined by the rector, and if they and the rector together, either or both, clearly violated their duty so as to be adjudged guilty of an offence capable of being made evident to me or the bishop, they would certainly be liable to be disciplined by him.

Q. Do the wardens and vestrymen of Trinity Church report to the bishop or to the convention their action in relation to grants or aid to churches, or in relation to their general affairs? A. They do not formally make a full report of all grants, but from the interest which attaches to the affairs of that parish, I believe its internal business is better known to the bishop and church at large, than the affairs of any other wealthy Episcopal congregation in the city of New-York. I am not aware that there is any concealment.

Q. Do they make an informal report? A. Various reports have been made at different times of the grants of Trinity Church, and I believe their proceedings generally transpire speedily. In some instances action is reported to me immediately.

Q. If they make no report to you, how have you any supervision over their affairs, except theoretically? A. The general course of the administration of affairs in the parish is well known. I presume it will be found that in every year the

receipts and the expenditures of the parish are known to a very considerable number of persons most interested.

Q. Have you any knowledge whatever of the management of the affairs of Trinity Church? A. I have only a general knowledge of those of any parish.

Q. What greater reason was there for abandoning the church at the Five Points, and Christ Church, than for abandoning Trinity Church at the head of Wall-street? A. The church at the Five Points and Christ Church, were independent parishes, and moved, I presume, of their own option to a more eligible portion of the city. Trinity Church might have removed to a more eligible portion of the city, so far as the character of her worshipers, for wealth, were concerned; but preferred to retain a very old site, the oldest I believe in the city, and to continue to exercise her ministry in that very destitute portion of the city.

Q. Were there not as strong reasons for retaining Zion church at the Five Points, as there were for retaining Trinity upon her site? A. I was not as well acquainted with the position of Zion church in those days as with that of Trinity, and it may have been very desirable that a church should have been retained in the place of Zion church.

Q. Is or is not the effect of making loans to churches and taking back bonds and mortgages for the money so loaned, to cause the churches thus receiving loans to vote in convention for the particular views Trinity Church espouses? A. I can only judge from my own experience and observation, and so judging should think not. I can recall many cases where such mortgages exist, and where the rector and the lay delegates quite habitually vote on a side different from Trinity Church. My attention has never been called to any case where the independence of the rector and laity seemed to have been impaired in consequence of the existence of any mortgage.

Q. Do or do you not know that in the grants of Trinity Church, she aids ten churches classed as "high church," where she aids one of opposite views? A. I do not know that she

does; it may seem strange, but I never have looked at the grants of Trinity Church to see how that was.

Q. Can you state the comparative number of the congregations known as "high church" in this diocese, and those known of the opposite character? A. I can suppose that there are many congregations that would not care to have either term applied; but if the line were to be strictly drawn, including on one side or the other every congregation, I suppose there would be five or six of the "high church" to one of the "low."

Q. What is the proportion in the city of New-York? A. I am not so well informed in regard to the city of New-York as in regard to the whole diocese, because a general vote is sometimes taken in convention showing the comparative numbers in the whole diocese, but nothing of the same kind occurs to show the proportion in the city, yet I have no doubt that the proportion of what would be called "low church" in the city, is somewhat larger than in the diocese generally.

Q. Was there not a time in the city of New-York, when all Episcopalians in that city had a right to vote at the elections of Trinity Church? A. I am not aware that there was any such time, unless it was at a very early period when all Episcopalians were members of that parish.

Q. What greater difficulty would there be in managing a larger property of the church through the convention, than there is in managing the Episcopal Fund? A. So that they were rightfully possessed of a larger property, I think they might be able to manage it.

By Counsel for Trinity Church.

Q. Say, whether there is not, necessarily, a most intimate connection between the spiritual and financial affairs of a parish, growing out of the fact, that the funds are to be applied with reference to spiritual interests? A. Undoubtedly.

Q. Had Trinity any control over the removal of Zion Church from the Five Points, or Christ Church from Anthony street? A. I am not aware that she had.

Q. If it be true, that in eight, out of the past ten years, an average of hardly one in ten of the corporators of Trinity Church appeared at the vestry elections of Trinity Church, is this a state of things peculiar to that parish, and does it indicate "torpor?" A. It is quite the ordinary condition of things throughout the diocese, I should think. It is generally rather a favorable indication, than otherwise, implying satisfaction with the administration of the affairs. As a general thing throughout the diocese, and throughout the country, probably, you will find few voters present, unless there is some trouble.

Q. How was it, during the twenty-two years that you were Rector of St. Peter's Church in Albany? A. I suppose, out of one hundred and twenty-five or one hundred and thirty corporators, there were, on an average, from six to ten persons present at annual vestry meetings.

Q. Do you think that Trinity Church has done its utmost to make the capital of the property of that corporation, available for the founding, support, or promotion of religious, charitable, or educational institutions, or purposes? A. It is a very difficult question for any one to answer, I have had some plans that I have wished, and intended to propose to the rector and vestry of Trinity Church, but I was met, in turning the matter in my own mind, on the threshold, with the fact, that Trinity Church has already a debt of, between $600,000 and $700,000; she is constantly beset by various applications, for important objects, and has been making grants, whenever she felt herself warranted in doing so; and I have felt that there might be difficulties about raising large sums of money at present, and having entire confidence in the probity and good will of the vestry, I felt unwilling to press them to exertions beyond what their own judgment warranted. Whether they have ever made any mistakes, or omitted to make appropriations, when they ought to have done so, I am sure I am not able to say, nor do I consider it a very material question in the present aspect of affairs.

Q. Is it the practice of the vestry to consult with the bishop of the church with reference to making or refusing grants?

A. It is not; I may be spoken to in some instances, but I particularly wish to avoid it. The applications will always be very much more numerous than can possibly be granted under any conceivable state of things. If I was known to interfere in the matter of appropriations, my duties and responsibilities would be very largely increased indeed, without any corresponding benefit to the church. I have felt obliged to have it understood in the diocese that I could not act in behalf of applicants.

Q. Can you tell us whether Trinity Church has, within the past twenty years, given any lots of land for any purpose whatever, except the burial plot spoken of in the report? A. I don't know whether she has or not.

Recess to to-morrow at 4 p. m.

THURSDAY AFTERNOON, *February* 17.

Present, Senate Committee, Messrs Spencer, Noxon, and Ramsey; Judge Parker, and O. Meads, Esq., counsel for Trinity Corporation.

Rev. Jesse Pound, recalled, examined by counsel for Trinity Church.

Q. Were you the pastor of St. Matthew's church at the time it was closed? A. I was.

Q. What other Episcopal churches were near St. Matthew's? A. There were several; St. Lukes's, St. Clement's, and there was a recently organized congregation called the St. John the Evangelist, first called St. Jude's; these were all that were in the immediate neighborhood.

Q. Which of these was the last organized? A. St. John the Evangelist, or St. Jude's, as formerly named.

Q Was there, in your opinion, any necessity for the organition of St. Jude's? A. I think not, the wants of the neighborhood were abundantly met by existing corporations

Q. How long before St. Matthew's was closed was St. Jude's organized? A. I think about eight years; but would not be certain as to the precise time.

Q. How near was St. Jude's church to St. Clement's? A. It was very near the length of one block.

Q. How far was St. Luke's from St. Matthew's? A. The distance of three blocks. St. Luke's was nearest to St. Matthew's.

Q. How far is St. Jude's or St. John's the Evangelist, from St. Matthew's. A. It is within three blocks.

The following letter was here introduced and read:

NEW-YORK, *October 20th*, 1847.

To the Rector, Church-wardens, and Vestrymen of Trinity Church:

Gentlemen—The undersigned, in behalf of St. Matthew's church, in this city, beg leave to address you for the purpose of discharging a duty which is as pleasing to our own feelings as we hope it will prove acceptable to your's, and which has only been thus long delayed by the fact of our not having had a regular and full vestry meeting during the past summer. The duty alluded to, is that of presenting to your honorable body our very sincere and most grateful acknowledgments for the annual appropriation you have been pleased to make to the parish we represent. We beg leave, most sincerely to assure you of our grateful appreciation of this act of kindness and consideration, and that we regard the value of the stipend, and our obligation to its donors, vastly increased by the fact that it was unsolicited. We consider it to be the province of St. Matthew's to test the practicability and efficiency of the free church principle, and since God's providence has placed us in a condition to test it fairly and fully, we are determined so to do, that if it fail here, it may be regarded as a total failure. Accept, therefore, our most sincere thanks for giving us something on which our rector may rely while this experiment is being made; and praying God to bless your exertions in discharging the obligations of your high trust and mighty responsibilities, we are, gentlemen, very sincerely,

Your grateful friends and brethren,

(Signed) JESSE POUND, *Rector.*

JOHN MCRAE, } *Wardens.*
HENRY FISHER, }

Q. Is that your signature affixed to the letter? A. Yes, sir.

Q. Are the others the signatures of the wardens? A. Yes, sir.

The witness desired to explain, as follows: St. Matthew's church was first given to the City Mission Society. To that society, Trinity had been accustomed to give an annual stipend, to each of their stations. That society became unable to sustain itself. The City Mission Society paid the stipend to each church, of which Trinity paid $600, which was one-half. There were three churches. The action of Trinity church vestry, to which that letter refers, was subsequent to their being given up by the City Mission Society, and consequent upon that act. The $400 was, therefore, in lieu of the $600 which had formerly been paid to the City Mission Society.

Again, in relation to the reasons which led to the founding of St. Matthew's Church. It was first purchased by an individual wholly, and given to the City Mission Society, in order that it might supply free church accommodations to that neighborhood. The location of the church was not esteemed a desirable one, chiefly on account of its nearness to St. Luke's; but the property was an eligible one and such as could be paid for with the means in hand. Before any step was taken towards the purchase, or any third individual knew of such intention, Bishop Eastburn and myself waited upon Mr. Forbes, then the rector of St. Luke's. Dr. Eastburn stated to him his purpose, and asked him if he had any objection arising from its nearness to St. Luke's. He replied he had not the least, and bid us God speed. He further observed that he could have no objection; inasmuch as there had not been a pew or sitting to let in St. Luke's for years, and there were constant applications for them which they could not supply. He further observed that were the church on the lot adjoining St. Luke's he would have no objection.

Q. How long before the closing of St. Matthew's did you adopt the practice of renting the pews? A. About three years. The practice was continued until the close of the church, but the rent was nominal, ranging from $5 to $20. The only object was to produce income enough to pay expenses.

Q. Who was the first rector of St. Jude. A. Rev. R. C. Shimeal.

B. Did he afterwards become a Presbyterian minister? A. He did, soon after he left the parish.

By the committee.

Q. It appears by the report of Trinity Church, that she gave annually to St. Luke's $2,100. What portion of that sum given to St. Matthew's would have sustained that church? A. One-half of it.

Q. By giving one-half that sum that property would then have been preserved to the Episcopal Church in the city? A. It would.

Q. Did Trinity Church receive back from the City Mission Society any considerable portion of her advances to that institution? A. I have reason to believe they did from the sale of the property, but not from the society.

Q. How was the property sold? A. It was sold under foreclosure of mortgages.

Q. Did Trinity Church hold mortgages upon those two churches? A. I presume not.

Q. How then did she collect the money. A. The church of the Holy Evangelists was bought and paid for wholly by contributions of private churchmen. The church of the Epiphany partly so; the other part, as I have been informed by the treasurer of that society, was obtained by mortgage of the two churches to the Howard insurance company for $13,000. When the security ceased there was no one to pay the interest, and the mortgages were foreclosed. Trinity, as I have been informed, became the purchaser. The Holy Evangelist's was sold, as I have been informed, for $15,000.

Q. What description of people made up the congregation of St. Matthew's? A. They were persons in humble circumstances; large proportion of them were poor. There was not a wealthy individual in the congregation.

Q. What description of persons made up the congregation at St. Luke's? A. They weree of a more respectable class, and much more means.

By Judge Parker.

Q. You have stated that half the allowance made to St. Luke's would have sustained St. Matthew's church. Do you mean that it would pay the indebtedness of the church and the mortgage on the parsonage? A. No, it could not do that.

Q. How much would it have taken to do that and to put the church edifice in repair? A. About $6,000. That would have left the whole property clear. An annual stipend of $1,000 from Trinity, after paying this indebtedness and repairs, would have paid its rector $1,000 per year and all ordinary expenses of the parish. The whole annual expenses of the parish never exceeded $1,700. I am now rector of the St. Luke's church, at Rossville, Staten Island, and received an annual salary of $400 and a parsonage.

By the committee.

Q. What was St. Matthew's worth at the time it was mortgaged? A. It was considered a chaep purchase at $1,500. It has been re-conveyed to Bishop Eastburn, the donor, who originally gave it to the City Mission Society.

Rev. *William Berrian*, Rector of Trinity Church, called and sworn:

Examination by counsel for Trinity Church.

Q. How long have you been a minister of Trinity Church? A. I am in the 46th year of my ministry in that parish; I was nearly seventeen years assistant minister, two years assistant rector, and have now been upwards of twenty-six years rector of the same.

Q. State whether, from this long connection with the parish and your official station, you have become vere familiar with its concerns? A. Legal questions being excepted, there are probably few more so.

Q. What particular facilities have you for this kind of information from your position as rector? A. I preside at every meeting of the vestry, and as presiding officer all its business passes me as presiding officer in the first instance, and if it be referred either to special committees or the standing committee, is generally more or less known to me in its progress, and always, of course, (unless referred with power,) before the final action upon it.

Q. Has your attention been drawn to the affairs of this corporation in any other way which might make you still more familiar with them? A. A few years since, I wrote the history of Trinity Church, the materials for which were drawn from the most authentic and reliable sources, and with as much regard to truthfulness and accuracy, as honesty of purpose and labor and care could possibly make it. I have, since that, written a vindication of this corporation, in a pamphlet entitled "Facts against Fancy," from the unjust and unmerited aspersions which have been cast upon it, and brought down the list of its gifts and bounties very nearly to the present time. I have also recently prepared a report to the vestry on the actual working of the system in our parish under its present arrangements, which could scarcely fail, from its beneficent results, to satisfy every candid and unprejudiced mind.

Q. Being so familiar with the affairs of Trinity Church, why did you not testify before this committee at its sessions in the city of New-York? and why did not all the assistant ministers testify? A. I was not summoned by the committee, and only three out of eight of the assistant ministers were, on what grounds the discrimination was made it is impossible for me to tell.

Q. Is there any foundation for the charge that the standing committee possess nearly all the reliable knowledge of the affairs of the corporation? A. In no degree whatever.

Q. Of whom does the standing committee consist and when is it chosen? A. The standing committee consists of the Comptroller, the clerk, and six other members of the body, who are selected from the whole number of the vestry, consisting of twenty-two members, on account of their supposed preeminent

fitness for the proper consideration of the subjects referred to them. The standing committee are elected every year.

Q. What is the usual course of proceeding in regard to the matters referred to the standing committee? A. It is merely a matter of reference to report on them after due consideration.

Q. Have the vestry in the meantime no control in the matter and no voice nor influence in the course of its proceedings? A. So far from this, a full and circumstantial written report is made by the standing committee at each monthly meeting of the vestry, of all that has been considered and acted upon since the last meeting of the body, as well as very often upon matters undecided and postponed.

Q. Are the recommendations of the standing committee conclusive? A. By no means; they come back to the body undoubtedly with great weight, from the care with which they are made up, but not in all cases with hearty consent and implicit submission; and hence, very often when not approved by the vestry, they are either sent back to the committee for reconsideration or at once rejected.

Q. It is stated that two of the assistant ministers of the parish have made several efforts to obtain a list of the corporators, but unsuccessfully, can you throw any light on this point? A. In regard to one of the cases which I suppose to be alluded to, if right in my conjecture I think that I can. Bishop Wainwright applied to the rector for a loan of the book containing the names of the corporators, and subsequently modified his application to examine and take a copy of it, if he deemed it expedient. The rector replied, "with respect to the right of any corporator to examine the book there cannot be a doubt, but the taking a copy of the same is a question I do not feel competent to decide." The matter was submitted to the vestry who unanimously adopted the following resolution, "*Resolved*, That the Right Rev. Provisional Bishop of the diocese be permitted to inspect the book containing the names of the corporators, and to make such extracts and copies as he should think proper." This list was afterwards drawn out and handed to the Bishop by the sexton of St. Paul's. The application for the list was made to th

rector, because the book was sent to him for the correction of the list by his annual statement of the new communicants which had been added to the parish, and the losses which it had sustained by removals and deaths.

Q. Is the list of the corporators of Trinity Church kept in the joint charge of the Comptroller and Rector? A. There seems to have been some misapprehension on this subject. The list is kept in the vestry office, and is under the sole custody of the Comptroller. My only agency in regard to this list, is, to make an annual statement on the meeting of the Vestry, immediately preceding the election of wardens and vestrymen at Easter; of the names of the new communicants, which have been added in the interval, and the decrease of the number in the same period, by death, or removal; in order to render the list more accurate and complete. This is done regularly every year, and how one vestry-man, if accustomed to be in his place, and giving any proper attention to the business before him, could have been ignorant of the purpose for which it was done, or another, having never seen this list, a privilege which he had a right to demand, but, which he never appears to have claimed; is to me a matter of surprise.

Q. State, whether the book containing this list, is usually taken to the place, where the election of Wardens and Vestrymen is held? A. I know that it is frequently, if not uniformly, and I believe that it is open to the inspection of any persons present, who may have the curiosity to examine it.

Q. Can you inform us, whether it was one of the objects in building Trinity Chapel, to increase the number of the constituency of Trinity parish? A. I think that I can. In the year 1848, observing the rapid changes that were going on in the lower part of the city, and, that in a very short period, we had lost by removal, more than half of our parishioners, I drew up a very careful and elaborate report of the comparative state of the parish, and submitted it to the vestry, which impressed them at the time, and subsequently led to the building of the chapel. As some of the motives and reasons which I presented, have a bearing on the matter in question, I beg leave to make

a brief extract from the report itself. "From 1840 to 1848, three hundred and thirty-five families and seventy individuals, appear to have left the parish. Of these a great part were born and brought up in it, and completely identified with it, anxious for its growth, jealous of its interests, accustomed to its arrangements, attached to its usages, friendly to its clergy, and to each other, and linked to it by such sacred and endearing associations, as nothing but the force of circumstances could have induced them to sever. Many of them, also, from their social position, their professional standing, their education, their wealth, and their influence, as well as from their sound churchmanship, their unaffected piety and moral worth, gave a greater degree of lustre and dignity, both in the eyes of the world and the church, to the ancient and venerable corporation with which they were connected. But this was not all. There was then a wider range than there is now, for the choice of distinguished, upright, and intelligent vestrymen, who might be qualified to administer the sacred and important trust committed to their charge with a becoming liberality, and yet with such wisdom and prudence as not to impair in a day what might be useful to the church for ages to come." The purpose, therefore, was perfectly reasonable and natural, and such, it would seem, as every pious and judicious mind would sanction and approve; to regain and preserve tried and attached friends, to keep up the standard of our constituency to the elevation which it had always maintained, and to enlarge the means of our usefulness to others. It was not supposed that the new chapel would be entirely filled with those who were already corporators as pew owners in the other churches of the parish, nor has it turned out so, but that there would also be an addition to their number, at least as communicants, among the newcomers. This is a simple and unvarnished statement of the motives and reasons by which the vestry were actuated in the erection of Trinity chapel.

Q. What can you say on the subject of the establishment of free churches in the city of New-York, and the aid that Trinity church has afforded them? A. The plan of free churches in our

communion in this country, is a very recent affair, and altogether experimental, and with the exception of the church of the Holy Communion, and one or two others, nearly all that has been done in their behalf in this city, has been done by Trinity Church.

Q. It is stated that it does not appear from the report of Trinity Church that it has ever built and free church? Has it done anything equivalent? A. Though that may be true, she has nevertheless done what may be regarded as a fair equivalent. The grants of $14,000, towards the Church of the Nativity, seems to be passed over slightly, as if it were a trifling affair. I doubt, however, whether if it were put up for sale to-morrow, it would bring much more than Trinity has bestowed on it.

Q. What has Trinity done in regard to St. George's chapel, in Beekman-street? A. Through her instrumentality it was rescued from destruction when it was about to be razed to the ground. The liberality and grace of this transaction, however, seemed to have been lost sight of in the report of the committee of the Senate, from an error, as they suppose, in the report of the committee of the vestry.

Q. Explain, if you please your meaning on this point? A. The vestry of St. George's wished a release of the condition on which the grant of lands from Trinity church was made to St. George's, in order that, being entirely unfettered, they might be sold to more advantage. This was, that there should be always a good and sufficient Protestant Episcopal church kept up in Montgomery ward. An arrangement had, therefore, been made between a committee of the vestry of Trinity church and a committee of the vestry of St. George's, that, upon the release of this condition, the latter should deposit ten per cent of the purchase money arising out of the sale of a portion of their lands, for the purpose of carrying out this object, and allowing St. George's chapel to be sold.

When the report of this arrangement came in, I expressed my great repugnance to it, as I had worshipped there in my youth; and in this feeling, I remember, Mr. Verplanck, Chief Justice Jones, and Gen. Dix entirely sympathised with me. It was,

therefore, sent back to the committee for reconsideration. The church was valued, by the vestry of St. George's, at $50,000. With their consent, the vestry of Trinity church agreed to take an abatement of $25,000 in the price of the chapel, in lieu of the obligation into which St. George's had just entered, and thus the venerable edifice was saved from destruction, and the condition of the gift fulfilled. The relief which was thus given to St. George's from the harrassing and expensive claims of pew owners in the chapel in Beekman-street, and owners of vaults in the ground around it, in case the church had been torn down, and the land disposed of for more ordinary purposes; and the sum that would have arisen out of the reservation of ten per cent of the purchase money in the sale of a considerable number of their most valuable lots, were regarded, I believe, at the time, on both sides, as a fair equivalent for the deduction of $25,000 from the price which was asked for the chapel. It was, therefore, for a full and valuable consideration that this deduction was made of $25,000, and not merely for "the worth of the vote;" though this valuable consideration could not have been obtained without it.

Q. Beside the payment of assessments, repairs, alterations and other expenses, by Trinity Church, has anything else been done for St. George's in Beekman-street? A. It has relieved the congregation entirely from the support of their minister, and assumed the payment of the whole salary itself; thus enabling it to become a free church, in a part of the city where one was much needed.

Q. It is stated that it appears from the report of the committee of the vestry, while nineteen churches not free have been aided in their support, in the city of New-York, within the last five years, no mention is made of building, enlarging and endowing them. How is this? A. If it be so stated, it must have been from mere oversight; as some certainly have been aided in that way.

Q. Which are they? A. Going back but a little way beyond the prescribed limits, the following grants have been made:

June 12, 1848, the Holy Evangelists,.....	$6,500 00
April 12, 1848, Free Church ot the Epiphany,....	6,500 00
St George's Chapel, for assessments, repairs, alterations, &c., in addition to the purchase money,...	5,660 30
June 28, 1847, Church of the Nativity, towards building the same,.....	5,000 00
November 26, 1849, " "	4,000 00
Grace Church, Brooklyn, towards the debt incurred in its building, five annual instalments of $1,000 each,.....	5,000 00
March 21, 1853, Church of the Annunciation,.....	25,000 00
April 9, 1855, Church of the Redeemer, at Yorkville,.....	9,000 00
January 9, 1854, St. Mark's, Williamsburgh,.....	6,000 00
And coming a little this side of the limit of 5 years,	
Free Church of the Holy Innocents,.....	5,000 00
Church of St. John the Baptist,.....	15,000 00
Making together,.....	$92,660 30

Q. A question is made as to the endowment ot churches in the city of New-York, by the said corporation, within the last five years. What have you to say about such restriction as to time? A. Had the instructions of the committee been a little more enlarged as to time, and a little more comprehensive in their range, so as to include Williamsburgh and Brooklyn, which are almost virtually a part of New-York, it would be seen from the foregoing statement that there are no less than five free churches, and five not free, that have been aided in the building, enlarging, or endowing of the same. And that the aggregate amount of these grants for such purposes is $92,660.30.

Q. Has Trinity done nothing more in behalf of free churches than you have already stated? A. She has made annual allowances towards their support, to the following churches: the church of the Nativity, the Epiphany, the Holy Evangelists, the Holy Martyrs, the Good Shepherd, St. John the Evangelist, the

Holy Innocents, St. Simons, St. Timothy, St. Cornelius, St. Barnabas, and the Seamen's Mission Churches of the Church of the Saviour and the Holy Comforter.

Q. What were the amounts of these annual allowances? A. They have varied according to the several necessities and circumstances of each particular case, but range from $200 to $1,200 per annum.

Q. Could these free churches, in your opinion, have been sustained without the aid from Trinity Church? A. I think that most of them would have languished, and been much less effective in their operations than they now are; and that the rest of them, in a short time, would have absolutely perished.

Q. How far may Trinity Church itself be regarded as a free church? A. It is so in a great measure virtually, though not in name. The parish church is open to all every morning and evening each day in the year, almost literally, without money and without price; and both the temporal and spiritual wants of the poor who frequent it, and who live in its neighborhood, are attended to with a watchfulness and kindness which have been seldom equaled among us, and never surpassed. The same thing may be said, in a degree, both of St. Paul's and St. John's. And even in Trinity chapel, kind arrangements have been made by free sittings, which enable the rich and poor to meet together without any sense of humiliation. In the four churches of the parish there are in effect about twelve or thirteen hundred free sittings.

Q. But has not the number of these free sittings been greatly multiplied from the mere force of circumstances, arising simply out of the non-occupation of the pews by their owners without any action of the vestry in the matter? A. It was not so in regard to a great number of them, for it was expressly stipulated in the renting of the pews in Trinity chapel, that those who hired them should be exempted from all rent on their pews in the churches below, on the condition that they should be placed at the disposal of the vestry

Q. And what disposition has the vestry made of them? A. It has left them entirely free.

Q. What have you to say in regard to the sale of Zion church, Christ church and St. Matthews, without any effort on the part of Trinity Church to prevent it and to convert them into free churches? A. From the removal of so many families belonging to Zion church, and the consequent decrease of the number of Episcopalians in that neighborhood, the congregation was greatly reduced. All the efforts of the active, zealous and indefatigable rector seemed to be fruitless, and it was constantly dwindling away. Already, in grants, gifts and annual allowances, had Trinity bestowed on Zion $41,770, a sum larger than that for which it was actually sold. There must necessarily be some limit to her bounty, and especially in a case like this where a fresh outlay, even for a free church, seemed to hold out but little promise of an adequate return. Christ church also had received from Trinity the still larger amount of $77,450. After these lavish gifts and grants, why should not the corporation of Christ church itself have turned it into a free church, and not left the reproach of neglect to be borne where it did not belong; with respect to St. Matthews, by the admission of its rector, it had fairly died out. In this state of things there seemed to be but little occasion for the interposition of Trinity Church.

Q. The next enquiry, according to the resolution of the Honorable Senate, whether any, and if any, what appropriations have been made by them during the last three years to institutions of charity, benevolence or learning, in the city of New-York; to this enquiry what answer have you to make? A. The simple regret at the same restriction as to place, the city of New-York, and the still narrower restriction as to time, that in the enquiries before it, thus cutting her off in the public mind, from the grace and credit of one of the noblest acts of munificence which Trinity Church, in the vastness of her bounty, has ever done.

Q. What is that? A. The grant of $50,000 to Geneva College, and the arrangement by the church, to pay the interest on that sum, at six per cent, until the principal should be paid; which has enabled it to become a Free College, the first instance of the kind, I believe, throughout our land.

Q. Is there any thing else since the ample endowment of Columbia College, the Society for promoting religion and learning, Trinity School and Hobart Free College, that Trinity has done, for institutions of charity, benevolence, and learning? A. If aid to the board of missions, whose office is established in the city of New-York, or to the Missionary Committee of this diocese, whose deliberations are held in the same, be classed under this head; I may then mention, that $5,000 was granted to the former, on one occasion, in behalf of the African mission, and $3,000 at another, presented as an offering on the altar to the latter, for the benefit of our diocesan mission.

Q. When, however, was this? A. In 1851, unfortunately again, a little too soon, to come within the very narrow limits prescribed by the Senate, for so comprehensive an inquiry. It may here be as well to account for the comparative smallness of her benefactions in these three years. Trinity Church was at that very time engaged in building a large, substantial and expensive chapel, for reasons which, as I have already stated, seemed to make it essential to her well being. But, notwithstanding this temporary check to the free course of her bounties, the gifts, grants and loans of Trinity Church, from the close of 1847, to 1855, amounted to $331,800.83 exclusive of the abatement of $25,000, for reasons above stated, from the price of St. George's.

Q. It is stated, that Trinity Church has never at any time, endowed any Institution of charity, or benevolence, even for her own poor. How is this? A. This appears to me, a most remarkable statement. It has, liberally and amply endowed Trinity Charity School, which has been doing immeasurable good to her own poor, and others, from generation to generation, and which, from a munificent bequest, of which she is just about to come in possession, promises to become one of the most important institutions in the land. The testimony on this point, comes from a quarter where it was but little to have been expected, and is calculated to leave a false impression on the public mind. Neither Trinity parish, nor Trinity corporation, have been so unmindful of their own poor, as the report of the committee would seem to imply. The communion alms, which,

in other churches, are often appropriated to mere general purposes, are in this parish, applied exclusively to the relief of the temporal and spiritual necessities of the poor. The private contributions of individuals, for the same benevolent purposes, in connection with our parochial charities, the Dorcas societies, the Industrial schools, and the Parish schools, bear some reasonable proportion to the ability of our people. Besides these, there are annual and occasional collections in the Parish, for St. Luke's Home, the Orphan's Home, the House of Mercy, and for the relief of human suffering and want, in other forms. These, exclusive of the collections for the House of Mercy, which are now in progress, amounting in the last conventional year, to between 7 and $8,000. In addition to this, Trinity Church corporation, makes an annual contribution of $2,000 towards the communion fund, to supply the deficiencies in the offerings of the people, on account of the altered condition of things in the parish. It appropriates nearly $1,600 a year, to lay agents, whose business it is to give needful assistance and counsel to the emigrant, on his arrival at this port; to visit the suffering poor, and ascertain their fitness for the bounty of the Church, and to search out the ignorant, for religious instruction. It expends about $1,000 a year on the Parish school of St. Paul's chapel, and it likewise empowers the Rector, with unlimited discretion, to give orders for the free burial of the poor, of our own congregations, as well as of others, a privilege which is very frequently sought, and in almost all cases, cheerfully granted alike to all.

Q. It is said that there is partizanship in the grants which Trinity Church has made. Is there any truth in this charge? A. As a christian man and a christian minister, I declare that I have never heard one which appears to be more unfounded and unjust. I have for twenty-eight years as assistant rector and rector, presided at the meetings of the vestry, and I have never heard a syllable from any member of that body in any application before them which would warrant the charge that it would be determined on partizan grounds. What influence the difference of opinion may exert on individual minds it is impossible

to tell; but I know very well that the question never comes up nor is even alluded to in the vestry itself.

Q. How far would this distinction of partiality in the grants themselves be proved by a reference to the parties to whom they were made? A. So far as the city of New-York is concerned, it would be a distinction without a difference; for with two single exceptions, all the churches in New-York, amounting to the number of fifty, have been sharers of her bounty. The following list of all the church corporations in the city of New-York, is taken from the journals of the convention. Those not marked with a *star* have been aided by Trinity Church. It will be seen there are but two in the list that have not received aid from Trinity. The one, the Church of the Holy Communion, that was built by the relict of the late John Rogers, the other is the Church of the Incarnation, that occupies the building erected by Grace Church for a free church.

New-York City and County.

Advent, All Angels, All Saints, Annunciation, Ascension, Calvary, Christ, Crucifixion, Emmanuel, Ephiphany, Holy Comforter, Our Saviour, Good Shepherd, Grace, Holy Apostles, *Holy Communion, Holy Evangelists, Holy Innocents, Holy Martyrs, *Incarnation, Intercession, Messiah, Nativity, Redeemer, Redemption, St. Andrew's, St. Ann's, St. Barnabas, St. Bartholomew, St. Clement's, St. Cornelius, St. Esprit, St. George's, St. George the Martyr, St. James, St. John the Evangelist, St. John the Baptist, St. Jude's, St. Luke's, St. Mark's, St. Mary's, St. Matthew's, St. Michael's, St. Peter's, St. Philip's, St. Simon's, St. Stephen's, St. Thomas, St. Timothy's, Transfiguration.

Q. But may not this aid have been rendered in different degree? A. It would be exceedingly difficult to make a comparison from actual facts, but I think that I may venture to say very safely, that if the aggregate amount of the favors and benefits received from Trinity by those churches whose rectors and vestries are supposed not to sympathise with her in her views, were set against the amount received by those whose rectors and vestries cordially do, that the groundless charge of undue partiality would be still more apparent. In this comparative estimate, however, must be included, what the corporation has done

for St. Mark's church, Grace church, and St. George's, whose rectors, if we may judge from their evidence in the present inquiry, appear to have had no great good will towards Trinity Church, though with more reason for kind feeling and grateful recollection than all others.

Q. Have you met with any instances among those called "low" churchmen, who have viewed this matter in a different light? A. I have with one, which is somewhat striking. A few years since, a frank and high-minded clergyman, who prides himself on his low churchmanship, but who is as liberal in his feelings towards the views of others as he is honest in his own, after having read the history of Trinity Church, expressed to me his amazement at the extent of her bounties I remarked to him, however, that he would perceive they were indiscriminately distributed, without regard to difference of opinion, among those who received them. And what if they had not been, he earnestly replied, had not Trinity Church a perfect right to do what she pleased with her own, I am sure I would have done so.

Q. Hearsay evidence has been received to show that a certain application for relief to the vestry of Trinity church had been repelled by the Comptroller, on the score that the parish, in whose behalf it was made, had not voted in favor of Bishop Onderdonk; what do you say to this? A. If this statement be true, the subject, nevertheless, from its peculiar delicacy, has never been touched on in the vestry of Trinity Church, and I am very sure that it was never made the ground of any action in this body, either in one way or the other.

Q. It is stated that the active liberality and zeal of the parishioners of Trinity have been so far weakened, that their four congregations united do less than some single independent congregations in the same city, with little or no endowment. Is this comparison well founded and just? A. Far from it, I think. It is well known that from the lower part of the city, in which Trinity and St. Paul's are situated, and even as high up as St. John's, nearly all the people of wealth and condition have removed and gone up town. Trinity church, though well attended is almost entirely filled with strangers, and the poor, only a very

scanty remnant of the former congregation remaining. The same may be said, in a measure, of St. Paul's, and in some degree, of St. John's The united ability of all three, for the exercise of charity, I do not believe, is equal to that of the congregation to which reference is supposed to be made.

Q. What Episcopal churches, besides Trinity, St. Paul's and St. John's are left in the lower part of the city? A. None but Du St. Esprit and St. George's chapel in Beekman street. St. George's church has gone up among the rich, taking its ample endowment with it. Grace church, with all its parish and individual wealth, has done the same; and so likewise have Christ church and the Ascension; leaving their deserted poor in the lower part of the city, almost entirely to the care of Trinity; and then she is taunted with the scantiness of her collections, from those who, for the most part, have comparatively but little to give.

Q. Is it true, as charged, that a general torpor pervades the whole concern. A. If there were even more ground for the charge than there is in regard to temporal matters, it is spiritually full of life and activity. Notwithstanding all the removals and all the changes which have taken place, it has not for years been in a more prosperous condition. It will appear from the report of the Rector made recently to the Vestry, that in the course of the last conventional year, 33 adults and 400 children were baptised in the parish, that 176 persons were confirmed, that there are 1,100 communicants, that there were in the Sunday, parish and industrial schools, 1,307 scholars and teachers; and that, in the same period, there were about 2,000 Sunday and week-day services in the parish.

Q. But is not this state of things in the parish, in some measure, owing to the action of the Senate? A. Neither the fear nor favor of man had anything to do with it. The motives to this activity and zeal, I humbly trust, came from a higher power. In the fall of 1855, a committee was appointed by the vestry on the state of the parish to consider and report thereon, and with a more especial view to its future arrangements on the completion of the new chapel, several meetings were held on

the subject, and all the leading features of the system were marked out and settled, according to my recollection and belief, before the action of the Senate.

Q. It is also stated, apparently as an instance of the same torpor that there is so little interest taken in the vestry elections, and that in eight out of the past ten years, an average of hardly one in ten of the corporators cared to appear. Do you consider this the fair conclusion? A. On the contrary, I think it the very reverse. It seems to me a decisive proof of the satisfaction and confidence of the corporators, in the general administration of the affairs of the parish. Did a different sentiment prevail, whatever their sluggishness, it would soon draw them out as all experience shows.

Q. Do you think that Trinity Church has done its utmost to make the capital of the property of that corporation available, for the founding, or support, or promotion of religious, charitable or educational institutions or purposes? A. Making due allowance for unavoidable diversities of opinion and the fallibility of human judgment, and looking beyond the mere present moment to perpetuity in the future, I think that it has. I have never known any body of men act more thoughtfully, more uprightly and conscientiously, than the vestry of Trinity Church in the administration of its affairs, nor any which, in its general character, surpassed it in wisdom and intelligence.

WEDNESDAY AFTERNOON, *Feb.* 18*th.*

Present—Senate committee, Messrs. Spencer, Noxon and Ramsey. Counsel for Trinity, Judge Parker and O. Meads, Esq.

Rev. John Henry Hobart recalled and cross-examined by counsel for Trinity Church—Q. So far as your knowledge extends, what, during the time of your connection with the parish, have been the policy, desire and action of Trinity church in relation to making the property of that corporation available for the founding, support or promotion of religious, charitable or educational institutions or purposes? A. I believe, so far as I have

knowledge, that the vestry have acted in good faith, to the best of their judgment, in order to make their property available for the purposes named in the question.

Rt. Rev. Bishop Potter, recalled by counsel for Trinity—
Q. Have, or have not the grants of Trinity church made to other churches, in the form of grants of money, secured by mortgages or otherwise, or in the form of annual stipends, had the effect to promote dependency, feebleness and deadness in the parishes thus aided, or what has been the effect of such grants in each of those forms of grants upon the internal condition of the parishes aided? A. I do not see why the assistance spoken of in the question should be injurious to the parishes in the respect mentioned in the question; nor do I believe that it has been; but on the contrary, beneficial. It has encouraged parishes to exertion in many instances, when otherwise they would have been unable to maintain themselves. The feeling often has been, I think, that the parishes, after receiving such aid, have laid themselves under special obligations to exert themselves. If it was an absolute grant, with a mortgage, it did not differ essentially from any other gift, except that the obligation spoken of was increased. If it was an annual stipend, it was like the stipend granted by the missionary committee of the diocese, and those annual stipends have been provided for by the collective wisdom of the church in the diocese, as a part of her organised system. It must imply an opinion, on the part of the whole church in the diocese, that that mode of rendering assistance is a useful mode. I have known many cases where the question of a church being able to establish itself in a given community, or being able to maintain itself, seemed to depend upon the assistance it received from Trinity church.

Q. Will you explain more fully your meaning in regard to the nature of your supervision over the affairs of Trinity Church? A. It is with the affairs of Trinity Church, as with those of every other parish in the diocese. The Rector, Wardens, and Vestrymen, are an integral portion of the church of which I am an overseer, and I cannot conceive, that in any part of their official conduct, they are exempt from a certain general responsibility to me, nor is the idea of such responsibilty des-

troyed by the fact that I do not supervise their appropriations, that my assent is not necessary to the validity of their grants, and that they make no report of their grants to me. Since I have been in office, a majority of the vestrymen of a parish, (not Trinity church,) laid before me, charges against their rector, of misconduct, in regard to the funds of the parish. I ordered a committee of inquiry. Had that committee found the charges warranted, in appearance, by the facts, the Rector would have been put upon his trial; but they were found to be groundless. The transactions of the parish, out of which this difficulty arose, were not of a nature to be included in the usual reports to me, nevertheless, the case shows that there was a responsibility to the head of the diocese, which extended to all those unreported transactions. Again, during the Episcopate of my immediate predecessor, there was a case, in which a rector charged his vestry with misconduct in the management of the funds of the parish. The Bishop ordered a committee of inquiry. I was the chairman of the committee. Witnesses came before us, the conduct of the Vestry was inquired into, and a report made to the Bishop, that the allegations of the rector were unsupported by the facts. In this case, also, the transactions in question were not of that class which are ever included in the parochial reports to the Bishop. Nevertheless, they were so far under his general supervision, that there was room for his interposition if a special difficulty should require it. Let me further illustrate; I am to oversee the conduct of the clergy. It is the duty of a clergyman to visit his flock, but he does not report to me the number, or frequency of his visits, and no doubt there might be some degree of neglect, without my knowledge, or without my considering it a case for special interference. So, any parish may commit many errors in church building and in the management of its funds, without my knowledge, and without my thinking it a case for interference, even if I was aware of it. But this does not at all destroy the idea, so familiar to the mind of every churchman, the idea I had in my mind, in my former testimony, that the rector, wardens, and vestrymen of a parish, cannot act in any official way, in any matter pertaining to church property, and the interests of

the church, without a certain general responsibility to the head of the diocese ; and, as in the cases I have just cited, that responsiblility, is not a mere theory, but a practical reality.

By the Senate committee :

Q. I should understand, sir, your first answer to imply, that you think it an advantage to a church to have its property under mortgage, do you so intend the reply ? A. As I have before stated in my testimony, I consider the mortgage a nullity, except for the purpose of preventing the sale of the church property and its alienation from its sacred use ; and, therefore, I consider it no disadvantage, and if I had a positive opinion to give I should incline to give the opinion that it was an advantage. I take it for granted that that opinion cannot be construed to be an opinion in favor of an incumbrance by mortgage in the abstract.

Q. Are you aware that under such mortgages interest accumulates, and that it is in the power of the holders to collect them ? A. I am.

Q. Do you by your answer in explanation, mean to be understood that you have any charge, direction or control, in any way or manner, over the funds administered by the corporation of Trinity Church ? A. I have already stated in a previous answer that I have no immediate oversight.

Q. Have you any remote oversight ? A. My assent, I have already stated, is not essential to the validity of a grant ; I am not generally cognizant of the internal or financial affairs of that or any other parish, but I must think, as is implied in my former answer, that all the official conduct of vestries is, in a general ecclesiastical sense, which I have partly explained in a former answer, subject to the jurisdiction of the head of the diocese.

Q. Do you regard the funds controled by this corporation in the same light you do the financial affairs of other church corporations, not having large estates. A. In one respect I do. They are just as much the exclusive property of that corporation as the property of any other church is. The magnitude of the

property places it in certain general moral relations to the diocese at large, which have been very largely recognized by the parish.

Q. Do you regard your control over this corporation and all others in this diocese alike. A. It has never occurred to me that there was any difference.

Q. For a misapplication or mal-administration of her fund, what discipline would you inflict? A. I have already stated that in the case of every parish there may be many errors, many omissions of duties, which would not call for any interposition. What action I might be induced take under particularly extreme circumstances, I certainly cannot foresee.

Q. I do not ask you what action you might take. I ask you what power you have, by virtue of your office as bishop? A. I have the power by canon of looking into the affairs of the parishes I visit. I have the power, by virtue of my office, of advice and admonition. If there be gross misconduct in the parish, it must be either with or without the connivance of the rector. It is not easy to be without. If it amounts to crime or immorality, it of course exposes the rector to be dealt with as in the case I have mentioned in a former answer.

Q. Is not all your power of a spiritual and ecclesiastical nature? A. Yes, sir.

Examination by counsel for Trinity. Rev. William Berrian re-called:

Q. Can you tell what gifts Trinity Church has made for the founding, or support or promotion of religious, charitable or educational institutions or purposes, and what is the amount of such gifts made prior to the 25th of January, 1814, and what subsequent to that date? A. The following grants of land were made by Trinity Church, prior to 1814:

1786, 3 lots to the senior pastors of the Presbyterian congregations in this city.

1765, 2 lots to the corporation for the ferry between this city and Paulus Hook.

1775, 2 lots to the same for a pier and slip on the north side of Vesey street.

1800, for a market in Duane-street; and for another in Christopher-street.

1810, 2 lots for a free school in Hudson-street.

1752, grants of land, between Murray and Barclay-streets and extending from Church-street to the river, to Columbia college.

1748, Grants for the site of Trinity Church school.

1800, 7 lots to the same.

1802, 32 lots to the Society for the Promotion of Religion and Learning.

1795, 28 lots to St. Mark's church.

1811, 25 lots to Grace church.

1812, 33 lots to St. George's.

1795, 5 lots to St. Peter's, Westchester.

1807, 3 lots to St. Stephen's.

1807, 6 lots to St. Michael's and St. James'.

1813, 4 lots to St. James'.

1805, 4 lots to Christ church.

108 lots from 1795 to 1805 inclusive.

1809, 3 lots to St. George's, Flushing; 3 to Grace church, Jamaica; 3 to St. James', Newtown; 2 to St. Ann's, Brooklyn; 3 to Trinity, Utica.

Grants in money and a bond during the same period,.....	$238,220	22¾
	1,500	00
	$239,720	22¾

The following are the grants in land by Trinity Church, from 1814 to August, 1855:

1815, a grant of land to the Free School Society.

1820, 3 lots to St. Luke's.

1827, 2 do

1834, 3 do

1835, 1 lot to the Ascension.

1832, 5 lots to Trinity school at a mere nominal rent.

In money during the same period, ... $998,703 60

There may be some discrepancy, but if so my statement underrates.

Q. How did you acquire the knowledge necessary to enable you to make the statement contained in your last answer? A. From a careful examination of the minutes of the vestry from 1697 to 1855. When I was in doubt I usually consulted the officers of the corporation, the comptroller and clerk, to clear it up, if they knew anything about it.

Q. Is the statement correct that in addition to the requirements of the law, the church required that all persons desiring to vote should give previous notice of such desire to the rector? A. I don't know of any such requisition.

Q. Were there any, and if any, what Episcopal church corporations in the city of New-York, prior to 1814, besides the corporation of Trinity Church? A. There were nine, to wit: St. Mark's, Christ's, Grace, St. George's, Du St. Esprit, St. Stephen's, Zion, St. Michael's, and St. James'.

Q. Did the members of either of these corporations, independent of Trinity Church, ever claim or exercise the right of voting as corporators of Trinity Church, before the act of 1814? A. I never heard of the exercise; but I think I have heard of the claim. I never heard of the claim being made but once prior to 1814.

Q. Was it granted at that time? A. I do not think it was. I never heard that it was.

Q. Was such a right ever claimed or exercised since 1814? A. I never knew it to be claimed but on one occasion, that was during my rectorship, when I was presiding. It was not exercised. It was accompanied by a threat that it would be exercised, but it was never carried out. I think it was between ten and fifteen years ago. It was by Mr. Walter M. Rutherford. Such a right has never been exercised.

Q. Is the Rev. Robert S. Howland generally deemed a "high" churchman, or a "low" churchman? A. He has always been reputed a "high" churchman.

Q. Did the vestry in 1813, to calm the fears of the Legislature promise that their funds should be applied to the building of

churches from time to time as the increase of population demanded, the control of said churches to be relinquished to independent vestries, &c., and suitable endowments to be made? A. I never heard that they made such a promise, nor knew any thing about it until I read it in the report of this committee.

By the Senate committee:

Q. You stated yesterday that a large sum had been given to the church of the Nativity, I would enquire whether a mortgage was taken for it? A. I presume that it was, but perhaps not for the whole amount. There were two sums of $5,000 at one time and $4,000 at another, I presume that the mortgages were given for those two sums.

Q. You stated yesterday that the vestry had a meeting, discussed the subject and agreed to allow certain ministers to examine the list of corporators; was that the first permission of that kind that had been given? A. It was the first request that had ever been made to me, that I remember; my answer was that there was no doubt of the right of the corporators to examine the list, but to take a copy of it, it was not my province to determine; I brought the question before the vestry as to the right to take a copy; the vestry resolved that the bishop might make such extracts, or take a copy of the whole of it if he desired. A copy was taken by the rector of St. Paul's and sent to the bishop.

Q. Did not St. George's and some other churches named by you, relinquish all right to the property of Trinity Church and all right to interfere in its affairs? A. I have always understood that they had.

Q. Did those churches offer to vote after that? A. Never, that I know of.

Q. Did not Col. Troup represent Trinity Church in 1813, '14, at Albany? A. He was a member of the committee of seven on the state of the church, and with full power to make application to the Legislature; the other members were Richard Harrison, David M. Clarkson, Thomas Barrow, Robert Troup, Jacob Le Roy, Peter Augustus Jay, and Thomas L. Ogden.

Q. Is there not a great want of Episcopal churches in some parts of the city of New-York? A. I would say there is a want; I cannot say a great want, in the eastern part of the city, particularly.

Q. Did Trinity Church ever build a free church? A. She has in effect; she has not in fact. She has given as much as would pay for the church.

Q. What was the cost of Trinity Church? A. I think it was about $350,000; the chapel cost $227,000.

Q. Do you think the Episcopal church in the city has kept pace with the increase of the population of the city? A. I have always considered it has.

Q. Was it not considered important by the clergy of the city and particularly by Bishop Wainright, to keep up Zion Church, at the time it was sold? A. I know it was by him; but I know nothing of the opinions of others.

Q. Did Bishop Onderdonk ever exercise or attempt to exercise any power over the vestry of Trinity Church, as a vestry? A. Not that I remember. I think I can say he did not.

Q. Are the recommendations of the standing committee always reported to the vestry? A. Yes.

Q. Did you ever know of the recommendations of the standing committee being overruled by the vestry? A. Scores of times.

Q. You speak of a resolution having passed the vestry, in relation to allowing Bishop Wainright to take a copy of a list of corporators. What called for this action on the part of the vestry? A. The reason was the bishop wrote to me requesting the list from me. I replied that I had no power myself to lend the book, though he had the right to examine it.

Q. When was it? A. I think it was in 1853, shortly after he became bishop.

Q. Had he applied for it previously without success? A. I understood that he applied to a clerk in the vestry office, who declined as I did, because he had not the power to do it.

Q. Did he ask to see it? A. I do not know; I presume he did. I think he asked me to see it.

Q. Did you show it to him? A. I think not.

Q. Why not? A. I have not the custody of the book. It is not in my office or custody.

Q. Who had it? A. At that particular time it was with me.

Q. Why did you not show it to him? A. I had it for the purpose of entering the names of new communicants, and the changes by death and removal.

Q. Did that prevent your showing it to him? A. I had no control in the matter. I looked upon the book as belonging to the comptroller and not to me.

Q. What are your powers, if any, over the books of the corporation? A. I have the sole custody of the parish register, containing the records of baptisms, marriages and burials; and those are the only books over which I have any control, though they are all open to my examination.

Q. Do you know of anything in the act of incorporation, or rules of the vestry, to prevent your showing the book to any person who applies to see it? A. I do not.

Q. Then, I again ask, why you did not show it to him? A. Because I thought it was the proper business of the comptroller to let him see it.

Q. Why any more proper for the comptroller than the rector? A. Because the book is one that was under his custody. I have no other answer to give.

Q. Was it placed there by law, or by action of the vestry? A. By usage, and the necessity of the case.

Q. What churches were enlarged or endowed in the city of New-York, for the three years prior to April 13, 1855? A. Two; the church of the Annunciation, $25,000, and church of the Redeemer, at Yorkville, $9,000.

Q. At the time St. Matthew's made application to Trinity for aid, was it admitted by its rector that it had fairly "died out?" A. I understood it had, from the testimony.

Q. Can you state when the application, in schedule G, was made to Trinity? A. I do not remember exactly the date of it; less than two years ago.

Q. Had it "died out" then? A. I believe it had.

Q. Do they not state in the application, that unless you gave them aid, they will cease to exist in May following? A. It appears to be so.

Q. Did you then understand, when you received it, that it was already dead? A. I understood that it was in a low condition. I knew it to be so for a long time before.

Q. Was her debt, as represented to you in that memorial, more than $4,800—$3,500 of which was on the parsonage? A. It is represented in the application at $4,800.

Q. Was the parsonage of that church separate from the church? A. It was on ground that belonged to the church, and not adjoining it.

Q. Why do you say the church was in a low condition, with only a debt of $1,300? A. My impressions of its being so were made from conversations with Mr. Pound, the rector, that it was in a very languishing condition.

Q. Have you stated the true and only reason for not giving her aid? A. I don't know of any other, I am not aware of any other.

Q. Was not one reason for refusing the aid that the request was disrespectful in its language? A. I do not know.

Q. What was the church edifice and lot worth, in your judgment? A. I suppose $15,000, perhaps a little more.

Q. Why did you not rescue her from her embarrassment? A. Because it was not thought worth the expenditure. It was surrounded with other churches.

Q. Do you regard Trinity Charity school as an institution of charity or benevolence, within the meaning of the resolution propounded by the Senate?—(Resolution was read.) A. I do, in an eminent degree; I will state the reason why. First, the education of our own ignorant poor children; in the next place, for a long course of years they were aided in their clothing as well as education, and there are now 50 to 70 beneficiaries who, in addition to their instruction, receive stipends from $20 to $50 per year, to help them in their clothing, &c.; it is a day school.

Q. What are the Dorcas societies? A. Societies for making garments for the poor. I regard these as benevolent societies; these societies are not aided by the funds of Trinity corporation. Industrials schools are those in which the poor, especially girls, are taught by the ladies, sewing, and where the garments are given away to the poor. They are not endowed by Trinity; one of the parish schools is endowed by Trinity, the others are supported by private contributions of the parishioners.

Q. Which do you allude to, as being spiritually full of life and activity, Trinity parish, or the Rector, Wardens and Vestrymen, in the administration of her fund? A. I mean that there is great activity and zeal on the part of the clergy of the parish, and of the congregations who unite in these efforts, and that the rector, the wardens, and vestrymen, heartily sympathize with them, and aid them in the prosecution of this work.

Q. How do you know the nine Episcopal churches which existed prior to 1814, did not vote for vestrymen in Trinity parish? A. I was very intimate with Bishop Hobart, from 1805. He was very communicative to me, though a young man, and I have no recollection of ever having heard him say, that there was any exercise of such privilege.

Q. Did you ever hear him say, they did not? A. No; I have been in the parish since the latter part of 1811, and certainly should have known of it, had it ever been exercised.

Q. What was your position from 1811 to 1814, in the Church? A. An assistant minister of Trinity Church.

Q. Do the records of the church show who voted in 1813? A. The clerk always takes down the names of the voters at the elections, with the several churches of the parish to which the voters belong.

Q. Have you ever examined the record with the view to find out whether the nine churches did then actually vote? A. I have not.

Q. Are the lists of persons voting at last election, preserved in Trinity Church? A. I preserve my own very carefully; I do not know whether the clerk does.

Q. If any such lists are to be found, would they not show whether any of the persons belonging to the nine churches, voted? A. If in existence, I suppose they would.

Q. What are the salaries of each and all the officers connected with Trinity Church? A. The rector receives a salary of $3,500 per annum, and a house with a stable; the five assistant ministers get $3,000 per annum, and an allowance of $1,100 for house rent; three other assistant ministers receive $1,500 per annum, and no house; the comptroller receives $3,500; the clerk of the vestry $1,000 per annum; the collector $1,200 per annum, clerk in the office $1,200.

Q. Is an allowance of $1,100 to all assistant ministers, for rent, sufficient? A. With moderate views, it is.

Q. Is the answer given on page seventeen of the report of Trinity Church the correct one? A. I presume it is correct. It reads:

Grants and Burial Places in Trinity Cemetery.

To the Orphan Asylum, a plot containing 621 square feet. To the society for the relief of aged and indigent females, a plot containing 300 square feet. To the Protestant Episcopal Mutual Benefit Society, a plot containing 600 square feet. To Christ Church, a plot to be selected. To the Orphan's Home, a plot to be selected.

By counsel for Trinity—Q. How do these salaries, paid to the clergy of Trinity parish, compare with salaries paid to other

clergy in the city of New-York? A. They are considerably less; Dr. Tyng's salary amounts, I am told, to about $6,000; Dr. Hawk's, about $5,000 or $6,000; the rector of St. Thomas receives $5,200.

By the Senate committee—Q. Do you understand the act of 1814 to restrict the number of persons qualified to vote for church wardens or vestrymen of Trinity Church, who had the right to vote before that time? A. I do not suppose that it was intended to restrict any who had a right; but let me add, that I do not think any had the right before, who did not belong to the parish of Trinity Church.

Examination by counsel for Trinity.—*Rev. Francis Vinton* called and sworn—Q. What means have you of being acquainted with the affairs of Trinity Church? A. I am an assistant minister there, and have been so since June 1855.

Q. What number of ministers are there in Trinity parish, and how are they employed, and what are the character and number of the congregations which attend the several churches in that parish? A There are nine ministers, the rector and eight assistants. Two are employed at the church, and two in each of the chapels; the rector having general supervision. At St. Paul's chapel, the only one I speak of, the congregation is composed of three classes: first, the old families retaining their seats; second, strangers from the hotels, clerks and sojourners of the city, engaged, for the most part, in mercantile business; third, mechanics, artisans, porters, washer-women, hucksters, and miscellaneous poor, who obtain their living by daily labor.

Q. Will you be good enough to explain the arrangements for parochial work at St. Paul's chapel, and as to the work of that kind actually done by the ministers and others there employed? A. There is a parish school employing two teachers with voluntary assistance from the women of the parish, to teach poor children the principles of religion, as professed by the Episcopal church, the elements of common learning; sewing to the extent of each making their own clothing, and as laboring to get their own living, and also instructions in church music.

The number of children is 80 or 100; also a Sunday school including other children of the parish, taught by between twenty and thirty teachers of both sexes; two classes for advanced scholars, also a weekly Bible class for clerks and young men. The public services in the chapel are every Sunday morning and afternoon, five months in the year, and a night service additional for seven months. I officiate statedly only in morning service, the other parts of the day being employed in other parts of the parish, at the church or chapel, and, therefore, can speak only of the congregation in the morning. Then it is large, as it is at all the chapels; the communion's offerings liberal, as shown from the fact that on Easter day they amounted to the sum of $270, and on Christmas day to $180, or thereabouts. At other times the contributions are generous. There is established in connection with St. Paul's chapel a mission house, open from 9 A. M. to 2 P. M., where one of the assistant ministers is present every day. There are two laymen employed to inquire into and examine every application for aid, and report the same to the office. The case is recorded in a book kept for that purpose, and a record made of all that was done in each case. The applicants are from vestrymen wanting clergymen, clergymen wanting parishes, poor wanting help, the sick medicine, the emigrant advice, &c. The office is in communication with most of the extant institutions of charity in the city of New-York. Cards are placed in hotels and eating houses, inviting guests, in my own name, to attend St. Paul's chapel, where free sittings are provided. We have received letters from persons we have aided, expressing their thanks to Trinity Church.

Q. Do you think Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding, or support or promotion of religious, charitable or educational institutions or purposes? A. I can speak only of what I have known of Trinity Church since my connection with it in June, 1855, and I say in answer to the question, that I have observed an earnest disposition so to do on the part of the rector, wardens and vestrymen of that corporation.

Adjourned to 4 P. M., Thursday.

THURSDAY AFTERNOON, *Feb.* 19, 1857.

Present, the Senate Committee, Messrs. Spencer, Noxon and Ramsey; Judge Parker and O. Meads, Esq., counsel for Trinity Church.

Rev. Sullivan H. Weston recalled. Examined by counsel for Trinity Church.

Q. Have you any explanation to make in regard to your answer contained in your former testimony?—[Referring to testimony taken before the committee in New-York.] A. I considered that when I said that I could not answer the question, that that was the end of my testimony; the chairman of the committee observing that that would do, and the rest of the answer as given was said after I had supposed my evidence was closed, and as I supposed, in the way of conversation, to the committee; and when I alluded to their property, I alluded to the current reports as to their boundless wealth. I was very desirous to come up and qualify, lest my former testimony might be misunderstood.

Q. Do you think the vestry of Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding, or support, or promotion of religious, charitable or educational institutions or purposes? A. I can answer that question as I did in the first instance. I do not know what their capabilities are, but my opinion was, that less should be given abroad and more in Trinity parish. By abroad I mean any where out of our parish. I do not doubt the sincerity of the vestry in trying to do the best they could.

Q. Have you any different opinion on this subject than you had when examined before? A. My opinion is the same now as then.

Q. Was not the reply of the chairman of the committee, at the previous examination, that "that would do," intended to dismiss you? A. Yes.

By the Senate Committee:

Q. Is there not great complaint among the clergy of Trinity Church at the doings and dealings of the vestry? A I have heard some complaints.

Q. If you had known, when you answered before that the property of the church was worth $6,000,000 or $7,000,000 would, you not have answered as before? A. My answer is, that I should want more done in the lower part of the city, and less elsewhere.

Q. Was it not, a short time ago, in agitation among the clergy of Trinity parish, to make a representation, in a united manner, of the wrong doings of the vestry? A. Not to my knowledge.

Q. Were you not spoken to by some of the clergy about the necessity of some such interference to change the dealings and policy of Trinity Church? A. Some of the clergy had agreed with me that more should be done down town, and this was previous to their last action in appointing additional force in the parish.

Q. Has not Dr. Higby and others, represented to you that the policy of the vestry was ruinous to the church? A. I do not remember of others, I know that Dr. Higby has spoken of the past policy as not being the best policy.

Q. You spoke of appointing force in the parish; when did it take place? A. About two years ago; don't recollect the time nearer.

By Counsel for Trinity Church:

Q. I want you to explain what you mean by saying you heard some complaints among the clergy, about the dealings and doings of the vestry? A. One complaint was in reference to the wish for increased expenditures down town, in order to meet the wants of the poor.

Q. Were those complaints made, before the additional ministers of Trinity Church were appointed? A. They were.

Q. If you had known that the whole income of Trinity Church was only about $100,000 per annum, should you say that they could accomplish more good with it than they have done? A. I think they could not.

Q. You stated that Dr. Higby complained of the past policy as not being the best policy, in what respect, did he think it

not the best? A. One, was in reference to more enlarged provision down town, and the other, in reference to the building of Trinity Chapel up town, to accommodate the parishioners who had moved up town.

Q. Have both those defects been supplied? A. The chapel has been built and we need more means down town, in Trinity parish, if they can afford it.

By the Committee:

Q. Is there not a great want of Episcopal churches in New-York, for the accommodation of the poor, or working classes? A. Undoubtedly; heretofore, we have not had force enough to fill the churches we had; that, is now in a great measure remedied. There is no necessity of building more churches in that part of the town, until those already constructed, are filled.

Q. Is there not a great want of Episcopal churches in the eastern and northeastern parts of the city, for the poor or working-classes? A. I presume it is so; it is so represented. It is not in my parish. I do not know what the religious opinions are of the population in those parts of the city.

Examination by counsel for Trinity church.—*Samuel T. Skidmore* called and sworn.—Q. Are you a member of the vestry of Trinity church? How long have you been, and how long a member of the standing committee? A. I have been a member of the vestry about ten years, and of the standing committee some six or eight years.

Q. Is there any rule of the vestry, or directions of the standing committee, which prevents a corporator seeing the list of the corporators? A. None that I am aware of, or ever heard of.

Q. Do you understand that any corporator has a right to see the list? A. I do.

Q. If there has been a refusal to show such list, was it by any directions of the vestry, or standing committee? A. No, sir; not that I am aware of.

Q. Was ever any request, either for an inspection, or copy of the list of corporators, brought to the attention of the vestry?

A. The attention of the vestry was called to an application by Dr. Wainright to get a copy of the list of corporators.

Q. Was it granted? A. It was, unanimously, I believe.

Q. Was any other application, either for an inspection, or copy, ever made to the vestry? A. Not that I am aware of.

Q. Have the grants made by the vestry been made in a partizan spirit, or with reference to "high" church and "low" church opinions? A. I should say, decidedly not. I would say further, that the question of "high" and "low" church, during the time I have been in the vestry, has been very seldom, if ever, alluded to; and if I thought that an application, in all other respects meritorious, should be rejected on the ground of its being "low" church, I should resign my place as a member of the standing committee.

Q. Have the vestry been, to your knowledge or judgment, partial in making their appropriations to other churches? A. I have always endeavored to be impartial myself, and I have no reason to doubt that the other members were actuated by the same motives.

Q. What influenced the standing committee and the vestry in their action upon the application of St. Matthew's Church? A. St. Matthew's made a large demand upon Trinity, larger than we thought we could reasonably grant, and we thought that in the then state of that parish, that a partial appropriation would do but little good. I would state that the application seemed couched in very peremptory terms, and I recollect that, as a member of the standing committee, I said we should divest ourselves of all feeling in consequence of the peculiar style of the application, and aid them if we could. We had very little faith of the church succeeding if we did aid them. There were other churches in the vicinity.

Q. It is charged that the vestry of Trinity Church have materially reduced the stipends formerly paid to clergymen in the city of New-York. How is the fact? A. Trinity Church has taken away stipends from certain churches whose congregations

they thought did not need them, being abundantly able to do without them; and grants of stipends were made in other instances where they were more needed The aggregate, I think, has not been reduced.

Q. Do you think Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding or support, or promotion of religious, charitable or educational institutions, or purposes? A. I think Trinity Church has made appropriations for religious objects as far, if not farther, than prudence would warrant in reference to her means.

Q. Have its expenditures and donations exceeded or fallen short of its income? A. I think that for the last two or three years her expenditures have exceeded her income considerably over $100,000; I think for some years previous, for the past half dozen years, her expenditures have largely exceeded her income.

Q. Will you state whether in your judgment these expenditures have been discreetly and wisely made? A. I certainly think so, except as to the undue extent.

Q. What was the rule that governed the vestry, in regard to helping churches of feeble means? A. I think that one favorite kind of appropriation was to parishes that had made great efforts to help themselves, which had received help from others, and where additional aid from Trinity Church was highly essential to ensure success.

Q. Is it true that aid was given to churches reluctantly and offensively? A. Reluctantly, only, when we thought our sympathies were running away with our better judgment. Never offensively, I should hope. Applications are very numerous and very many of a highly meritorious character, and which enlisted our strongest sympathies, we have felt compelled most reluctantly to refuse. When we had the means we took great pleasure in granting their application.

Q. What proportion of the applications were you able to act upon favorably? A. I certainly think not over one-tenth.

Q. Do you remember any meeting of the vestry when you had not a large number of those applications pending before you? A. I do not remember any meeting of the vestry when there were not more or less of these applications pending before us, unless a meeting of the vestry had been held just after the whole number before the vestry of these applications had been disposed of. There have been temporary periods when it was generally understood that Trinity's inability to respond favorably to applications would cause temporary cessation or postponement of them.

Q. Were any grants made by the vestry with a view to power or influence? A. I should answer, in my opinion, most decidedly no.

Q. What have you to say about the erection of Trinity chapel and the leases of pews in it? A. Trinity chapel; the chief object in building it was, first and principally, for the accommodation of the parishioners and their families who had been a long time in the parish, but who had removed too far from the parish church and chapel to continue to worship therein, and thus, by inducing their return, increase, as a consequence, the number of their constituency. When the chapel was finished, the vestry adopted such plans for disposing of the pews as they thought best calculated to attain those objects. But, inasmuch as some of the features of those plans, such as the disposing of them by an auction, were of a somewhat novel character, they determined to act cautiously and prudently in the first lettings of those pews. The first day's biddings (as is known,) were confined to the then actual corporators of the parish, and to those who had been pew owners at any time within the preceding ten years. After which all such pews as were not then taken, were on a subsequent day disposed of at auction, the competition being general, to any one desirous of procuring a pew in the chapel. Particular attention has been called to the fact that the first leases given for pews in the new chapel were drawn so as to expire just one or two days before the annual election. If they had been made to expire on the day after the election, the lessees would not in either case have been entitled, by virtue of

those leases alone, to vote, for the reason that they would not have been members of the congregation for the full term of one year before the election. If such feature, or any other feature, about those first leases be deemed, therefore, peculiar or unusual, it must be attributed to over carefulness on the part of the vestry, and a strong desire not to admit improper persons as corporators. The result of the lettings of the pews was, however, highly satisfactory and gratifying to the vestry, and they thereupon, in due season and before the next election, ordered the future leases of the pews to be made to terminate on 1st day of May in each successive year, as in other chapels. Chapel consecrated April 17, 1855, when first services were performed; election held March 25, 1856.

Q. Is it true that the vestry was governed by the policy of "accumulation," as is charged in the testimony of Mr. Bradish? A. I answer by saying that I think the expenditure of tens of thousands of dollars per annum beyond her income does not show such a disposition.

By the Senate Committee:

Q. What is the lot at the corner of Murray-street and Broadway, (No. 251 Broadway,) worth? A. Of all the real estate of Trinity Church, there is not one that I consider so valuable, as that on the corner of Murray-street and Broadway. I should think it would sell for $75,000, or $100,000, if it was entirely free from lease, or any incumbrances.

Q. Will you see what it is returned at, in this report of Trinity Church? (showing witness report.) A. It is stated here, at $36,750.

Q. When you made the report, did you know of the sale to James H. Noe? A. I recollect the sale of a Greenwich-street lot for $20,000, but do not remember the purchaser's name, nor whether the sale was before, or after the Vestry's report.

Q. Did you know of the sale at the time it was made? A. I did. If it was sold before the report, it was included through inadvertence.

Q. Were you a vestryman at the time the report of Feb. 15, 1856 was made? A. Yes Sir.

Q. Did you not, with others, negotiate for the disposition of property, on the corner of Chambers and Church-streets, and what valuations did you put upon it, for the Hudson River Railroad Company, and at what time was the bargain made? A. $5,000 per annum, which is 5 per cent on $100,000.

Q. How much do you make the lot worth, estimating it in that manner? A. It would be worth $100,000, estimating it in that manner. The church put no valuation on it, but only talked about what it would rent for.

Q. Does not Trinity Church rent her lots in all cases, at five per cent on what she estimates to be their value? A. It is the usual custom, where the leases are renewable, but where a lease falls in, we do not feel ourselves bound by any such rule.

Q. Will you look, and see what those lots are returned at? (showing witness report.) A. They are returned at $29,500, based on the assessor's valuation.

Adjourned to 4 P. M., on Friday.

FRIDAY, *February* 20, 1857.

Present :—Senate committee and counsel as before.

Examination of *Mr. Samuel F. Skidmore*, continued—Q. By Mr. Spencer. During the three years Trinity incurred a debt of over $100,000, was she not building Trinity Chapel? A. She was. Those expenditures I allude to were independent of the building of the Chapel.

Q. Is the Annunciation a feeble church? A. As to its present circumstances and condition I am entirely ignorant.

Q. What sum has Trinity given her within a year or two past? A. The sum, as appears by the report, in the aggregate, is $26,800. It appears by the report to have been given within five years preceding the date of the report. We gave St. Luke's Church, for the year preceding the date of the report, $2,100

which I think was larger than any preceding year. I suppose we shall not give them less the present year. The Annunciation and St. Luke's Churches are reputed to be high churches.

Q. Do you find any such sums given to any low churches during the same time. A. No sir. I see no such sums given to either high or low churches.

Q. Did you ever know a corporator to look at the list of corporators. A. I don't know that I ever saw one examining the list.

Q. Do you think you know of all the expenditures of Trinity Church, ecclesiastical or otherwise? A. I should think I did.

Q. Do you know of any such disbursements that were not directly for charitable, religious or benevolent purposes? A. I think very probable there might have been disbursements for other than those objects.

Q. What other object would they spend money for? A. I cannot call to mind the particulars of other disbursements.

Q. Is the estate of Trinity Church increasing in value. A. I think it is worth more now than at any former period, and more than when assessor's valuation was made.

Q. Does the vestry make an annual report of the financial condition of the corporation. A. It is the duty of the comptroller, as well as the custom for him to make such report to the vestry.

Q. Is there a report made by the vestry to the corporators? A. There is not.

Q. Is the annual report of the comptroller printed or circulated? A It is not.

Q. What appropriations within the three years preceding 13th April, 1855, has Trinity Church made to institutions of charity, benevolence and learning in the city of New York? A. I read from the report of the church: "Grants of burial plots in Trinity cemetery to the Orphan Asylum a plot of 621 square feet; to the Society of Aged and Indigent Females a plot com-

taining 300 square feet; to the Protestant Benefit Society a plot containing 600 square feet; to Christ's church a plot to be selected; to the Orphans' Home a plot to be selected;" and as this was the period during which we were building Trinity chapel, I presume there were no others.

Question by Judge Parker:—How long were the vestry in making out their report? A. Several months.

Q. If there was any omission to correct the report of the church, in regard to a lot sold after the report was made out and before its date, was it from design or inadvertence? A. It was from inadvertence undoubtedly.

Q. Does the report of the vestry of Trinity Church state the valuation of the real estate of the corporation, as founded upon the estimates of the vestry, or upon the valuations of the city assessor, made for the purposes of city taxation? A. Not as her own valuation, but as the valuation of the sworn city assessors; I would further say, that the vestry had no desire to depreciate the value of their property by adopting the valuation of the city assessors as the basis of their report, for they supposed that to be near enough for all practical purposes, and if deemed below its real or actual value any two or three gentlemen, familiar with the value of city property, could easily have agreed upon some additional percentage necessary to bring it up to their own opinion of its fair, if not its exact and actual value; and they were equally anxious to avoid all exaggeration of the value of their real estate, which would thereby induce large and more numerous applications for aid, when they have so many beyond their ability to grant.

Q. When the comptroller makes his annual report to the vestry, what is done with it? A. The comptroller makes out his annual report according to custom, which is examined and certified to by an auditing committee, appointed by the vestry for that purpose. It is then read to a meeting of the vestry, and laid upon the table, or ordered on file, subject to any further examination in detail, by any member of the vestry.

Q. How long has it been the practice to make these annual reports? A. During the whole time of my being a member of the vestry, and, as I suppose, always.

Q. What is the object in taking mortgages, where a grant is made? A. These church mortgages are taken and held by Trinity Church, not for their own private benefit, but (and in good faith) for the benefit of other churches. They never have demanded, nor do they expect to demand, either the principal or interest of these loans, except in occasional isolated cases; such for instance, as the foreclosure of a prior mortgage, or to save the church properties from being disposed of improperly, or for other than church objects and purposes. The parties obtaining these loans, (which they look upon virtually as gifts,) do not object to giving such mortgages on their churches, but generally view the requirement of them as a wise and conservative measure for perpetuating the original object and intention of the grant. The character of these mortgages is so well and so generally understood, that an attempt to foreclose any one of them, on the part of Trinity Church, for the purpose of restoring the amount again to their own coffers, would be regarded as little short of absolute dishonesty. If the same objects aimed at in these loans, could be equally well secured in some other way, I confidently believe that no desire on the part of Trinity Church to keep alive a sense of obligation to her on the part of the recipients of her favors would, for one moment, stand in the way of the change. For the foregoing reasons, I think that the principal and interest of those mortgages, (amounting to $571,952,) ought not to be considered as part of the wealth of Trinity Church, nor be made to show a *seeming intention*, on her part, to withhold from the Honorable the Senate, essential and important facts respecting her property.

Q. Has the church ever foreclosed any of these mortgages? A. None to my knowledge.

Q. Can you make any statement relative to the interest of Trinity Church in St. John's Park, and the reason it was omitted in their report? A. I will state that Trinity Church looked

upon that park as so permanently appropriated for the purposes of a park, that the sale of it, apparently, no more entered their minds, than the sale of one of their burial grounds. The agitation of the subject of the sale was started by the other property owners, after the report of the church was made. The statement upon that subject in the supplemental report of the vestry is correct; the whole number of lots interested in the park is sixty-four, of which Trinity Church owns seven, being one-ninth of the whole. I will further state, it was supposed on part of some of the property owners, that they would be able to get from the United States Government some six or seven hundred thousand dollars for the property. I do not know whether they actually had an offer for it or not, but even if sold at that price, the pro-rata share of Trinity Church would be about seventy thousand dollars. St. John's chapel and parsonage and Sunday school stand on these seven lots, the rest is vacant ground.

Q. Have you been on the committee to examine the comptroller's report, and had you free access to all the books, papers and accounts? A. I have been on the committee, and had free access to all the books, papers and accounts.

Q. Have you ever heard of any member of the vestry being denied free access to the books? A. Never knew or heard of any such thing, except in the testimony annexed to the committee's report.

Q. Have the standing committee power to sell a lot without the consent of the vestry? A. It is not their custom, and I understand they have not the power.

Q. What means have the members of ever knowing the proceedings of the standing committee? A. The standing committee keep full minutes of all their proceedings, and which are read to the vestry at every vestry meeting.

Q. Is each report and recommendation by the standing committee then passed upon separately by the vestry? A. They are.

Q. Have the vestry in any way endeavored to control the free opinions and acts of the vestry and ministers who had received or were seeking aid for their churches? A. Not to my knowledge.

Q. State the proceedings of the vestry for making the ministration of the church more efficient in the lower part of the city, and the dates at which they took place? A. May 8th, 1854, at a vestry meeting, resolutions were offered for the appointment of Dr. Haight and Messrs. Hobart and Weston, as assistant ministers; the resolutions were referred to a committee on the state of the parish. March 5, 1855, resolutions were adopted that on —— day, the assistant ministers shall be appointed by ballot, and that they be assigned to a particular congregation. March 26, 1855, the above named gentlemen were appointed assistant ministers, and on the 11th of June, 1855, they were severally assigned to their respective congregations. The resolutions of the 8th of May, 1854, had reference to the appointment of assistant ministers, and their assignment to their different churches. The resolutions of 8th May had reference to the appointment of the different churches.

Q. State what were the proceedings of the vestry and standing committee on the subject of the application of the church of St. Timothy, and what influenced their action? A. The Rev. Mr. Howland made an application to the vestry of Trinity Church of a noble and magnanimous character, which was referred as is usual to the standing committee, tho gh at a time when the committee considered the financial condition of the parish illy calculated to respond favorably to so large an application. They were still anxious if possible not to be obliged to reject it. The proposal on the part of Mr. Howland, involved liabilities to the amount of twenty thousand dollars. He proposed to appropriate dollar for dollar, or upwards, for the same object. The committee were so desirous of doing something, they invited Mr. Howland on one or to occasions to meet with them in committee. After long and anxious consideration on the subject, they felt compelled to report to the vestry unfavorably to the application. The vestry did not adopt the report, but sent it back for further consideration. Yet, after further consideration, and with the strong sympathies of every member of the vestry in behalf of the application, the standing committee again reported unanimously against it, for the reason that the increased magnitude of their debt in their judgment

forbade it. Notwithstanding this report, the vestry ordered it to lie on the table, where it is now.

Q. Were any applications made during the last year for the establishment of two free churches in destitute parts of the city, provided the applicants would furnish half the cost? A. None, except the application to Mr. Howland.

Q. How long a lease is there on the lot No. 251 Broadway, and at what annual rent? A. An unexpired lease of about sixteen years, and at an annual rent of twenty-six dollars and a quarter.

Q. Was there any service in Trinity Chapel until its consecration, and on what date was its consecration, and what day was next election held? A. There was no service previous to the consecration, which was on the 17th day of April, 1855, and the next election was on Easter Tuesday, the 25th March, 1856.

Q. What statement have you to make in regard to the valuation of the property of the church, which would be correct upon Ely's and Dodd's valuations of the real estate? A. There seems to be a mistake in the principle adopted for arriving at the nett total present value of the real estate, as stated on page twelve of the Senate report. The Vestry's estimate, taking the valuations of the assessors as a guide, irrespective of the leases and deductions, was $2,668,710.

Q. Then if the above valuation of $2,668,710, makes the present value of the interest of the lessees to be $1,222,338, what would the interest of the lessees be on Ely's and Dodd's valuation of $5,874,023? A. $2,690,443, or very nearly that amount.

The aggregate footing in Senate committee report is,		$7,092,544
From which deduct on account of leases according to above corrected estimate,.....	$2,690,443	
And the church debt of,.....	648,913	
		3,339,356
Leaves,.....		$3,753,188

The nett total present value even on Messrs. Ely and Dodd's valuation, should therefore be		$3,753,188
Instead of (as stated in report of Senate committee)		5,221,293
Making in this one item an error evidently of about		$1,468,105
From the nett total present value as above corrected of		$3,753,188
Deduct the church mortgages and interest, $571,952		
And the amount set down for St. John's park,	400,000	
		971,952
And a nett total present value would then remain of		$2,781,236
As the nett amount resulting from the adoption of Messrs. Ely and Dodd's valuation. By adding thereto a prospective pecuniary interest in St. John's park, the sum of say		$75,000
And it would make the aggregate amount,		$2,856,236

This, be it remembered, is a valuation entirely irrespective of the existing encumbrances by leases, which would greatly reduce its present value to Trinity Church; and be it also remembered, that nearly one-half of the entire real estate brings Trinity Church an income of less than five hundred dollars per annum.

By Senate Committee:

Q. What valuation did the vestry put upon St. John's park? A. They did not profess to put a valuation on that property, but after showing the strongest disinclination to sell at all, and being earnestly importuned and pressed to name some terms upon which they would give their consent to sell, they finally agreed to do so, when their share of the proceeds of the sale should be $400,000.

Q. Have the standing committee power to lease lots without the consent of the vestry? A. They have to lease, but not to sell. The standing committee leases property without consulting the vestry.

Q. Have not the vestry been urged by some of its members to print the annual report? A. There was one very respectable member of our vestry has been solicitous to have the report printed for the use of the vestry, but a majority have been disinclined to do so.

Rev. Edward G. Higbee, called by counsel for Trinity Church.

Q. What explanation do you desire to make in relation to your former testimony before this committee? A. On the 3d of Dec., 1856, I was called upon to give testimony before a committee of the Senate of the State of New-York, in relation to parish of Trinity Church in the city of New-York. The interrogatories were few, and the answers necessarily short and general, and I fear that without further explanation my testimony will not be understood. I kept no memoranda of my interview with the committee, but as well as I can remember, one of the first proposed to me was as follows (substantially):

"During the time that you have been connected with the parish of Trinity Church, in your opinion has the design of the original foundation of the same been fully carried out?" A. "My belief is, that owing to temporary and accidental circumstances, the influence of which has been increasing almost from the time that I became a minister of the parish, the original design of this charity has not been fully carried out."

This, in substance, was my answer. I was not requested to state what the "temporary and accidental circumstances" were to which I alluded. Such a statement, however, appears necessary, to show the true meaning of my testimony.

I therefore beg permission to say, that I alluded to the general and yearly increasing removal of the residences of the citizens of New-York towards the more northern part of the island, and to the effects of this upon the churches, of all denominations, in the lower parts of the city.

The effect upon Trinity Church, and its chapels, (more particularly upon Trinity Church and St. Paul's chapel,) was, first, to deprive them, gradually and surely, of their regular congregations, and, of course of their congregational and parochial

spirit, responsibility and efficiency ; and secondly, to diminish and weaken, in a continually increasing ratio, the constituency of the corporation ; thus destroying the equilibrium of the parish, and undermining its foundations as an institution of public charity.

For a long time there seemed to be no remedy for this evil. The vestry were restrained, (as I have always understood,) by the terms of their charter, from acquiring real estate, and therefore, could not follow the members of their church to their new residences, and supply them with places of worship.

At length, a means of removing the difficulty was afforded, by a general act of the Legislature, passed I believe, in 1850. Under the provisions of this act, ground was purchased, upon which Trinity chapel now stands. This chapel was opened in 1855, in the spring, and it has been, and is now filled, with a large, stated, intelligent and charitable congregation ; and there can be no reasonable doubt, that the result of this decided movement in a right direction, is a most salutary one to the whole parish, and is full of promise for the future.

I believe that the clergy of Trinity Church are united, and that the parishioners sympathise with them in the desire and the resolution to make, so far as in them lies, this ancient parish an instrument of good to the church, and to the community at large, to the utmost extent of its resources.

Another question proposed by the committee, was in substance as follows:

"Have you ever seen a list of the constituents of Trinity Parish?"

A. (In substance,) "I have never seen such a list Dr. Wainright and I made repeated efforts to procure one, without success Dr. Wainright, however, as he informed me, did obtain it from the vestry after he was elected to the episcopate."

This answer is too vague and general. Had there been opportunity for more careful recollection when I was before the committee, my answer would have been as follows:

"For a long time Drs. Wainwright, Parks, and myself, assistant ministers, had been filled with anxiety and apprehension on account of the steady diminution of the constituency of the parish. Wishing to keep ourselves informed of the real condition of things we sought to procure a true list of the constituents. We were reluctant to ask formally for the official list of the parish, because suggestions had been made to us that we might thereby incur the imputation of intending to take some active part in the Easter elections. We therefore tried to make a list for ourselves from such sources of information as were within our reach. Failing in this Dr. Wainwright and I, (Dr. Parks being absent on account of the illness of which afterwards he died,) resolved that we ought formally to request a copy of the list kept in the vestry office, or by the rector. Dr. Wainwright in his and my behalf, did accordingly make such an application. When he first made it I do not now remember, nor how often it was repeated; but I know that, as he informed me, such a list was furnished him some time after his election to the episcopate.

The foregoing explanations are true.

EDWARD Y. HIGBEE.

New-York, *January* 5, 1857.

Rev. William H. De Lancy called and sworn; examination by Senate Committee.

Q. Where is your residence and what is your office? A. My residence is in Geneva, Ontario county, Western New-York; and my office is that of bishop of the diocese of Western New-York, to which office I was consecrated in 1839.

Q. What part of the State of New-York does your diocese comprehend? A The western part, including Broome, Chenango, Madison, Oneida, Lewis, and Jefferson counties, with all the counties west of them.

Has Trinity Church, New-York, aided any of the churches in your diocese? A. Yes, I learn from the publications of the rector of Trinity Church that she has aided altogether, since 1807, in Western New-York, about 77 churches, being 6 before

the year 1814, and 71 churches since that year. Some were aided twice. Of those 71 aided since 1814, about 20 have been aided since I became bishop.

Q. In what way has the aid of Trinity Church been extended to those churches? A. In almost every case, except Trinity church, Utica, as far as I know, by grants of money, in small sums, for churches and parsonages, for which grants in some cases Trinity Church has taken a mortgage on the church, and in other cases she has not.

Q. Has Trinity Church ever foreclosed any of the mortgages on churches, or ever required the annual interest on them to be paid to her? A. I have never heard or known of any such cases in Western New-York or elsewhere. I do not usually consecrate a new church edifice, until the vestry certify that its debts are paid or reasonably provided for. A mortgage to Trinity Church, on which neither principal nor interest are demanded, I do not consider an obstacle to the consecration of a new church, but as additional security against its alienation from its holy objects.

Q. Has any church in your diocese, to which Trinity has made a grant of money without taking a mortgage on church edifice, ever been lost to the congregation or diocese? A. Yes; a church on which Trinity Church took no mortgage for a grant of $500, was sold for debt, and the congregation dispersed. A mortgage to Trinity Church would have saved it, or at least saved the $500, for the use of the diocese elsewhere.

Q When Trinity Church has thus taken mortgages from churches in your diocese for monies granted to them, what has been the effect of this upon the interest and condition of the churches thus aided? A. Favorable. 1. By preventing church edifices from being alienated from the holy objects for which they were erected. 2. By encouraging the individual members to sustain the church thus secured to its object. 3. By attracting outside people to the church thus known to be secured to its object without their being called in to help to pay its debt. 4. By being an obstacle as a first mortgage against further mort-

gages of the church for debt. 5. I cannot say that I have seen any moral, spiritual, ecclesiastical, or pecuniary evils result from such mortgages in my diocese.

Q. Has Trinity church ever, to your knowledge or belief, sought to exercise any influence over the course or opinions either of the clergy or the parishes in your diocese? A. No.

Q. Has Trinity church, to your knowledge or belief, ever been governed by party considerations in making her grants to churches in your diocese? A. No.

Q. Has Trinity Church made any grants for educational purposes in your diocese? A. Yes, a most important and liberal one to the value of $50,000, to Geneva college in 1851. The grant was made when Geneva college was in a disastrous and critical condition, occasioned by the State withdrawing unsuspectedly, under the two year provision of the new Constitution of 1846, in regard to appropriations, her annual grant of $6,000 to the college, leaving nearly $3,000 unpaid, (and still unpaid) a debt upon the college trustees, who were without means to pay the professors, all of whom but the president sought other posts, and the students diminished in number from eighty (the highest number under the State grant) to thirty-seven. When the prospect of private endowment to maintain new professors was dim and gloomy, and the very continuance of the college dubious, in this emergency Trinity Church was asked to endow the college, which she did in 1851 by a grant of $50,000, the interest at six per cent., to be paid annually until the principal is paid on the termination of the Astor lease, as I understand, on the condition that the college be made in its literary department a *free college forever*, to all students that come to it, and that it take the name Hobart Free College, by act of the Legislature. Since which time the faculty have been sustained, and the students have increased from thirty-seven to ninety-six, a larger number than it ever had under the State grant. And $22,000 additional endowment, viz: a professorship of $15,000, a fellowship of $5,000, and two scholarships of $1,000 each, and several benefactions have been received from private sources, not one of which endow-

ments, I am convinced, would have been made, without this grant from Trinity church.

Q. Do you think that the vestry of Trinity church has done its utmost to make the capital of the property of that corporation available for the founding, or support, or promotion of religious, charitable, or educational institutions, or purposes? A. As I cannot name the wealthy church corporation, or individual, in the city of New-York, or elsewhere, who I think does, in these respects, act with the capital of the property up to full obligations to God, and does the utmost with it; as the question covers the proceedings of the vestry before I was born; as I am not now, and never have been acquainted with the exact condition, or external arrangement of the property of Trinity church, and therefore, am not qualified to give an opinion on such a point, I can only say, that if the present rector and vestry, who know about their property, declare that they have done, or are doing to their utmost in these respects, I would rely upon their statement, as that of honorable, high-minded, faithful and conscientious men, in preference to my own views, which must be founded on most imperfect knowledge, and in opposition to the opinions and judgments (respecting the use of Trinity church property,) of disappointed applicants, eager expectants, enthusiasts in experimental schemes of good, the heads of church parties and local enemies, or any other individuals, but partially acquainted with the facts of the case, however pious, worthy, zealous, and highly esteemed I may regard them.

Q. What, in your judgment, would be the effect of the repeal of the law of 1814? A. Disastrous to the church, both in New-York city and in the country Disastrous to the church in New-York city: 1. By engendering, at once, a long and bitter litigation before the courts, between Trinity church corporation and the other churches in the city, as the to constitutionality and legality of the repeal of the law, requiring, at once, a repeal of the law of 1784, or a modification of it by another law like that of 1814. 2. By dividing the churches outside of Trinity church corporation into parties for and against Trinity church, on all these points. 3. By splitting up every congregation into

such parties. 4. By making the election of vestry for Trinity church an annual occasion of unholy excitement, collision and contest, most injurious to the character, piety, prosperity and usefulness of the church. 5. By throwing an unquenchable firebrand among the clergy and laity in New-York. 6. By raising, at once, such questions as these to distract the clergy and parishes: If the rector of Trinity church, be the "rector of New-York and all its inhabitants," is he not rector over all the churches under the charter? Are not all the other rectors in New-York, merely his assistants? Are not all the churches in New-York merely chapels of Trinity Church? Is not the law, authorizing separate parishes in the city, unconstitutional? Ought not the charters of other corporations to be annulled, as incompatible with the charter of Trinity; which would then comprise all the inhabitants of the city? The law, as it stands, silences all such questions; repeal it, and in my judgment, with such a property at issue, and in a city containing 2,000 lawyers, many, of the highest eminence, and keenest penetration, such like questions would start up at once to produce clamor, confusion, and conflict, and to draw away thousands of dollars from charitable, religious, and educational institutions and purposes, to a most baneful litigation. The repeal of the law would be disastrous to the whole church of the State, outside of the city. 1. By raising the question, as to the right of dispensing any of this property out of the city, which is denied by some, but which, the present corporation has admitted, and has temporarily acted on. 2. By leading, almost necessarily, to the division of all the property among the city churches. 3. By thus cutting off all the feeble country churches from the benefit of this favor. 4. By stopping what has been a stream of most salutary and fertilizing benevolence to religious, charitable, or educational institutions in the rural districts. 5. By presenting the church in the city of New-York, clergy and laity, in a most unattractive and deplorable attitude, as quarrelsome, abusive and repulsive, estranged from each other; pamphleteering and publishing in anger, and stirring the whole press in New-York, and in the country, secular and religious, into sharp, bitter, and ceaseless controversy, fatal to the

reputation of the church for stability, quietness, and peace, and not promotive of the sanctification and salvation of men, but subversive of sound law and morals.

Question by Mr. Spencer. Is the opinion expressed in the answer you have given, your opinion of churchmen generally? A. My opinion is founded upon my knowledge and observation of human nature generally, and of religious controversies and church contentions, generally.

Q. Have you looked over the names of the persons who testified before the committee in the city of New-York? A. Yes sir.

Q. Are not the laymen who testified, among the most liberal to country churches? A. I have never, that I recollect, made personal applications to any of them, but some of them bear a high reputation for liberality, with other churchmen in New-York, and I have myself, a high personal regard for them. I cannot answer as to their liberality to country churches.

SATURDAY, *February* 21.

Present: Senate Committee and Counsel as before.

William Moore, called and sworn. Examination by counsel for Trinity Church:—Q. Where do you reside? A. I reside in Phillipstown, Putnam county, lately of the firm of De Rham and Moore, of the city of New-York.

Q. Have you been a vestryman of Trinity Church, and for what time? A. I was elected a vestryman in 1839, and continued to be so until last autumn, when I resigned in consequence of my removal from the city.

Q. Were you a member of the standing committee? A. I was for a great many years, but don't remember how long. I continued in the standing committee up to the period of my resignation.

Q. Will you tell me whether the list of corporators was open to the inspection of any corporator? A. I believe it to be so; never heard of any difficulty on the subject, until an application

was made by Dr. Wainwright for a copy of the list. The persons in the office, to whom the application was made, were doubtful of the propriety of giving copies of papers, and the request was referred to the vestry, which immediately granted the request; I think unanimously.

Q. Was there any rule or order of the vestry preventing access to the list of corporators? A. Not to my knowledge or belief.

Q. Were the grants made by the vestry made in a partizan spirit, or with reference to "high" church or "low" church opinions? A. I always endeavored to divest my mind as far as possible of every bias, in consulting on applications made to the vestry, and I believe my colleagues were equally conscientious.

Q. Is there any foundation for the charge that there was partiality in making appropriations to other churches? A. My answer to the last question will apply also in a great measure to this. In so large a body of men as twenty-three, the number of vestry of Trinity, it is impossible that personal predilections may not sometimes influence individuals in their votes on applications. I believe it would not be in human nature to be otherwise.

Q. Was each application discussed and decided upon its merits and the ability of the church, without reference to "high" church or "low" church opinions? A. Most certainly.

Q. Is there any ground for the charge that the stipends have been reduced, or have they merely been transferred from the wealthier to the more feeble churches? A. My impression is that the aggregate amount of the stipends is as large now as at any time that I was in the vestry. The stipends have been reduced and sometimes entirely taken away from richer congregations and given to poorer.

Q. Do you think Trinity Church has done its utmost to make the capital of the property of that corporation available for the founding, support or promotion of religious, charitable, or educational institutions or purposes? A. We have always endea-

vored so to do, and as far as the revenue of the church went, I think we succeeded.

Q. Is it true that the aid extended to feeble churches was done reluctantly or offensively, or with a view to acquire any power or influence over the congregations or ministers of the churches aided? A. No. To the first clause I would say, on the contrary, that it always gave us great pleasure when we could, to respond favorably to any of the numerous applications before us.

Q Have you considered the mortgages taken for grants to churches as available means? A. No.

Q. Were they taken with a view to the benefit of Trinity Church, or with a view to the protection of the church thus mortgaged? A. They were taken with a view to prevent that property being lost to the church at large. In case of a foreclosure of a previous mortgage, or some embarrassment to the church, that this money advanced by Trinity should return to that church to be distributed again, or returned to the same church. I never knew of any case of a foreclosure of a mortgage while I was in the vestry, nor do I believe there ever was one.

Q. Have you been one of the committee to examine accounts? A. Yes, for several successive years I was chairman of said committee; and for many years it was the practice of the comptroller to submit his bank, check-book and monthly statement of accounts to the standing committee.

Q. Say whether there was or not free access to all the books, accounts, papers, &c., of the office? A. I never had occasion to ask for any book, account or paper, which was not freely open to me, nor do I believe there was any book, or account or paper, the examination of which would have been refused.

Q. Will you explain the case of St. Peter's Church, referred to in the testimony of Rev. Mr. Beach, in pp. 119 and 120 of report of committee? A. St. Peter's Church was aided by Trinity Church to the amount of $25,000. It was our bond for that amount. There was a mortgage given by St. Peter's to

Trinity Church on the church property, to secure the repayment of this, with the bond of three of the congregation as collateral security. Subsequently St. Peter's church borrowed from Mr. Lenox $22,000, for which they gave him the bond of the same parties, and a second mortgage on the church. Trinity Church released those who had signed as security to them either at that time or subsequently, and the mortgage to Trinity Church then became an ordinary church mortgage, on which payment was not expected. Mr. Lenox having only a second mortgage, he probably became uneasy as to his security, on account of the accumulation of interest on the prior church mortgage, and, upon an application of St. Peter's church to the vestry, they consented to give Mr. Lenox's mortgage of $22,000 a priority to the extent of the capital, and one year's interest on it over all the interest due or to grow due on our church mortgage. That arrangement was made in July, 1844. Subsequently, about 18 months after the vestry of St. Peter's applied to us to give Mr. Lenox's mortgage a priority over our mortgage, or to discharge our mortgage. This application was, after mature deliberation in the standing committee and vestry, declined, on the ground of the general policy of the church in taking these mortgages as security for the benefit of the church.

By the committee:

Q. When you took your mortgage on St. Peter's was it not on leased ground and not on ground in fee? A. My impression is, and I think that I am right, that our mortgage was upon the church edifice and the lots upon which it stood, which were in fee. I think the leased lots to which Mr. Beach referred in his testimony, were not the lots included in our mortgage.

Q. Was not your mortgage made to extend over seven other lots previously held under lease? A. I don't recollect.

Q. If it was so made, was not your security increased by this arrangement? A. Undoubtedly it was.

Q. Do you know of any landed endowments made to other curches since 1814, by Trinity Church? A. I do not.

Q. Are the churches of the Good Shephard and St. John the Baptist, feeble churches? A. They are; the annual allowance, I see by the report, is $200 each. The church of St. John the Baptist has been otherwise largely aided lately by Trinity Church.

Q. Is Grace church, Brooklyn, a feeble church? A. I should hardly say they were now.

Q. Is St. Luke's church, New-York, a feeble church? A. It is, it could not be sustained but for the aid of Trinity.

Q. What is the annual allowance to Grace church, Brooklyn? A. The church report says it is $1,000. The explanation is, that when Grace church was built we granted them an aid to build the church of $15,000, payable annually in sums of $1,000; and this is not yet wholly paid. The $1,000 annually reported is in payment of it.

Q. Is the church of the Good Shepherd or St. John the Baptist more feeble churches than St. Luke's? A. It is almost impossible for me to say as to the comparative feebleness without the statements of the churches, upon which we pass upon their applications. St. Luke's church is upon the property of Trinity Church, and in the immediate neighborhood of our tenants. Trinity has set aside ground near there for the purpose of building a chapel, when we can afford it; until we can do so we have felt ourselves obliged to sustain St. Luke's church as the church for that district.

Q. Is the church of the Good Shepherd a more feeble church than St. Luke's,? A. I do not know.

Q. What do you pay annually to St. Luke's, according to the report of Trinity church? A. $2,200. I presume there is some explanation that might be given in this case also.

Q. Do you understand there is any legal obstacle to the collection of church mortgages, if the church is so disposed? A. I believe there is no legal obstacle; but, if we should attempt to foreclose one, it would create such a clamor that we would never hear the last of it.

Q. Were you in the vestry with Mr. Wolf and Mr. Cyrus Curtiss? A. Yes.

Q. Do the vestry of Trinity Church consider themselves acting for the Episcopalians, generally, in New-York, or acting as such for Trinity church parish? A. For Trinity church parish.

Q. These grants that you refer to, were they made as donations of the property of Trinity, or as property held in trust for the benefit of all the churches? A. They were made as the property of Trinity Church.

Q. Do you think the income of Trinity Church was greater in 1810 or 1812 than it is now? A. We were much richer then in lands, but I don't know about our income.

Q. While in the vestry, did you know of all expenditures, ecclesiastical or otherwise? A. There were no expenses except such as were authorized by the vestry, and I had the same opportunity of knowing them as others.

Q. Have there been any expenses, to your knowledge, for other than charitable, religious and benevolent purposes? A. None others than such as were necessary in the case of so large a property.

Examination by counsel for Trinity Church.—*Gulian C. Verplanck*, called and sworn:

Q. Are you a member of the vestry of Trinity Church, and how long have you been? A. I am a member of the Vestry, and have been, since 1844, whether elected at the annual election of 1844, or to fill a vacancy, I do not recollect; about 12 years.

Q. How long have you been a member of Trinity Church? A. I was a corporator and pew-holder as early as 1811, but have not been, continuously, since that time.

Q. Did members of other congregations vote at the vestry elections of Trinity Church, prior to 1814? A. I think not, for the reasons which I will state. At the first election at which I

voted, which was in 1812, there was an excitement growing out of a parish question, the contest between two eminent clergymen, Dr. Hobart and Mr. Jones, which brought out the full vote or nearly so, of the electors entitled to vote for wardens and vestry, there being two tickets for the respective parties. I had strong feelings for one of these, and voted for one of the tickets. I confidently believe that no votes other than those of pew holders or communicants of Trinity Church and her chapel were received, and that two or three others only, who were pew-holders or communicants in other churches, were tendered and refused. This general recollection of my own, has been recalled and confirmed, so as to give me great confidence in it, by the inspection of nearly contemporary documents stating that fact.

Q. Has any suit ever been brought, or proceeding instituted, to establish the right of a member of any other church, to vote at the vestry elections of Trinity church? A. I have never heard of any such suit or proceeding, and I think there can have been none, because from my after connection with the church, as a vestryman and an occasional inspector of annual elections, I think I must have heard of such suit or proceeding, if any such had taken place.

Q. Has any member of any other church, not a pew-holder or communicant in Trinity church, voted at the vestry elections of Trinity Church, since 1814? A. I believe never, unless under some mistake. I have heard of a vote being offered, and rejected on that ground; I know it from the papers of the day.

Q. Has the act of 1814 been acquiesced in, by other churches in the city of New-York? A. I think so, practically, as it so rarely happened that a vote was ever tendered on any ground, but that of being a corporator of Trinity, or a communicant or pew-holder. I recollect but one instance; there may have been a second, allowing for some absence from the city and country.

Q. Have you ever been a member of the standing committee? A. Never.

Q. Have you had free access to the books, papers and accounts of the office? A. Perfectly so. Whenever I desired a book or

paper I was shown it, and I frequently had and used opportunities of examining important books without asking the officers, from the publicity with which the minutes and other papers were kept in the office.

Q. What induced you in making such examinations; A. Sometimes general curiosity and a wish to know and be qualified to act upon the questions which came before us. I have, at times, also examined more particularly, and even had statements made for the use of the vestry, on my resolution, for the purpose of knowing the true financial state of the corporation of which so many vague notions were entertained.

Q. Were you chairman of the Trinity chapel building committee? A. I was chairman of a committee of inquiry into the matter of location, cost of construction; and again chairman of building committee, one of which was for the plan most resembling the one adopted; it was a plan, the estimated cost of which was about $80,000. This did not include the price of land, and I do not recollect whether it included the organ. The actual cost of the chapel is more than $200,000, exclusive of land. I am not as precise as I should be, because there are certain expenses of a recent building of a gallery, which I have not seen and cannot now give.

Q. What was the cause of the excess of the cost of that chapel above the estimates? A. The chapel was not built by contract, except for particular objects, such as the delivery of stone, but was built under the direction of an architect by day's work. One cause, forming a considerable portion of the extra expense, was delay in building from weather and non-delivery of material, &c., during which time there was a great and rapid rise in labor and material. Another and also large increase arose from causes familiar to all who have had experience in constructing public or private buildings, by which persons having the charge of buildings have been tempted to enlarge or vary their plans. Having had some personal experience on public works as a committee-man, from the capitol at Washington down, as well as on private works, I find it to be very common. A third cause is an error in estimate in two or three expensive

items; the cost of foreign stone for the lining of the chapel, which much exceeded our estimate. I was very much vexed at the result, and regretted the excess.

Q. What have you to say with regard to the appropriations made to St. Luke's church? A. St. Luke's church was considered, by myself and other members of the vestry, in a double relation. First, as it stood to us, in the relation of a great land holder, to provide for our own tenants, and improve our own property, among which St. Luke's stood. Secondly, as a considerable, and poor congregation. I knew the character of the congregation chiefly from an intimate friend, who has often spoken of himself as the only, or almost the only person of means, who could, or did do anything for the pecuniary support of the church. We also looked to keeping the congregation together, with the view of transferring it, in some form or other, to the location on Hudson-street burial ground, reserved for that purpose. I have, on those grounds, voted cheerfully, and expressed my approbation of all such temporary allowances as were thought necessary to keep up the church. The precise amount recommended I have had nothing to do with, leaving it to the judgment of the committee.

Q. What do you say as to the alleged control of the standing committee? A. On some subjects, it is necessarily great—as to the valuation of property, and the terms on which property should be sold—they being familiar, from long and daily experience with the value of our property in detail. On other points, such as allowances or gifts to churches, the vestry form their own judgment, and frequently refer matters back to them for reconsideration; sometimes, and in important matters, rejecting their report, and making, or refusing grants, in opposition to their recommendation. A case in point has just been referred to us for examination. It is that of the church known as St. John the Baptist, a donation to which, the standing committee had reported against, and which, after full consideration and debate, was granted, nearly to the amount asked.

Q. State whether, in your judgment, the funds of Trinity Church have been judiciously applied? A. I believe they have been always applied with an honest intention. With great respect for the memories of our predecessors in office, I think now, and have before very often expressed the opinion, that the early policy of Trinity Church was erroneous in making large endowments for churches which became filled with wealthy and fashionable people, and did not provide for the wants of the body of the Episcopalians of the city of New-York. I think the present policy, founded on experience, is far wiser; by the present policy I mean aid to poorer congregations in New-York and elsewhere, in the form of stipends or money grants, and especially in providing for the religious or other education of the poor in our own churches. I will also add the accommodation of many others, who cannot literally be called poor; young clerks, for instance, who could not provide themselves with hired pews.

Q. Is it true that the grants of Trinity Church have been made in a partial or partizan spirit, as regards "high" church or "low" church views? A. I have never observed any evidence of it, and have never felt it myself in any vote, I can say with a clear conscience.

Q What have you to say on the subject of free churches? A. I have taken great interest in them; was among the founders of the City Mission, a donor and occasionally a solicitor of donations. I have been Vice-President of the City Mission, and understand I now am. I have been disappointed in the results of purely free churches, which I fear can hardly get along without an endowment. I think the best and largest example of a practical without a nominal free church, is the parish church of Trinity. In this there are a limited number of pew-holders mixed with a much larger body, forming a large congregation, who need free accommodations. It is practically a free church, because with congregations of from five hundred to fifteen hundred, I perceived just before I left town, from an accidental inspection of the list of pews, that the actual receipts from the pews of Trinity, for the year ending in May, 1856, was $157.

At St. Paul's the sum collected was $280, for the same period. I will add that my personal knowledge is of Trinity, where I attend with considerable regularity about half the year. The operation of St. Paul's resembles that of Trinity.

Q. What have you to say as to the value of property of Trinity church, and the mode of valuation in its report? A. I had no hand in making out the report made to the Senate of the value of their property, but I think that no other mode of estimation than that of the sworn assessors could have been made and agreed upon. This arises, in my judgment, from the church interest being a reversionary property, falling in at different periods, with comparatively a small income. As to the most valuable and saleable property in the lower part of the city, which has recently risen, even since the making of the report, the high prices chiefly for commercial purposes, my own experience and observation convince me that it is impossible to calculate with any reasonable ground of reliance as to its reversionary value for six, eight and ten years, and longer periods ahead. I speak both from observation and experience on this subject. I have been a member of monied institutions, which lend on mortgage, in the city of New-York; such as the Life and Trust Company. I have observed the great fluctuations and fall of value in parts of the city, such as Pearl-street, Hanover Square. I have examined many bonds and mortgages of this character while inquiring into the value of property. I have myself had the management and control of property in Stone-street, Pine-street, &c., which in 1835-36, was of great value, but has now fallen one-half, or nearly one-half its value at that time, owing to the transition of certain branches of commercial business from that locality to Broadway, and the streets adjoining it. I could not, therefore, myself, as the same occurrence may take place, estimate a high reversionary value ten or fifteen years hence, from present prices. The Astor lease, forming a large portion of the property of the church, falling in in ten years, is a mere reversionary property, producing, at present, only $269 per anum. Such property, when offered in large amounts at a time, would not, probably, command the bids or offers of any but capitalists

expecting to purchase at a low rate, and except under very favorable circumstances, would hardly bring its reversionary value, calculated on the assessed value, and perhaps not so much. I form that judgment with the full knowledge that where the property is not encumbered with a lease, it might sell for more than the assessed value. For these reasons, I think the assessed value the only one that the church could properly give, or the vestry have properly agreed upon.

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7 o'clock, P M.

Gulian C. Verplanck's testimony continued.

Q. Will you state what appropriations have been made by Trinity Church to institutions of charity in addition to those that have been already named? A. I may possibly not know all that have been named, but I understand no mention has been made of the annual appropriation to the church of the Deaf Mutes, which consists of the whole annual rent of the church used, and also a stipend, I believe, of $300 or more. I think the rent is $500. Another stipend is a charity rather than a church donation, to a minister, the Rev. Mr. Cook, the German missionary at Ward's island and in the city among German emigrants, I think the allowance is $300. I suppose I may add, as there has been an allusion to it in a previous question, that he is a "low" churchman; and I never have known of any objection being made to the motion I make every year for the appropriation. A similar annual donation, which I mention as falling within my own knowledge as emigrant commissioner, is that of Rev. Mr. Winslow, Protestant chaplain for the Quarantine hospital, given for other services to emigrants landing at Castle Garden, in relation to their concerns both temporal and spiritual. St. Luke's hospital received substantially from Trinity church the grounds on which the hospital is built, now of great value, which took effect within a year or two. It was in this way: Trinity Church had some years ago leased to the corporation of the city a piece or square of ground to be used as a market, and on that condition, at the foot of Duane-street. A hospital and church for British emigrants called the church and hospital of St. George the Martyr, had

been projected and in part carried into effect; expecting to collect sufficient funds here and in England, they wanted a piece of ground, spacious and convenient enough for a hospital building, they applied to Trinity for a grant for this purpose. Trinity had no lands suitable for it, and it was doubted whether they had present means to enable them to buy; about the same time, however, the market at the foot of Duane-street having been given up, the question was presented whether we had not the right to re-enter and claim our property at the foot of Duane-street. The vestry were advised that they could do so, and I suppose correctly, but some friends of the proposed hospital suggested that the unpleasantness of a suit against the corporation would be avoided, and a great good obtained by negociation, if the corporation would grant a certain suitable location to that hospital, high up on the Fifth-avenue, the vestry releasing to the city corporation their rights in the Duane-street lot, which the city authorities were desirous of selling for a large amount to the Erie railroad. This was carried into effect, the vestry relinquishing, for that purpose, their right to a property of great value, worth perhaps $40,000. The institution of St George the Martyr, failing for some reason, St. Luke's was substituted in its place, and the property was transferred to St. Luke's hospital, Trinity Church formally joining therein. I consider that the property was therefore obtained by St. Luke's hospital by means of a grant from Trinity Church; the title was obtained from the corporation of New-York, the real consideration thereof being the land released by Trinity Church, and sold for a large sum to the Erie railroad. Our last assent to the transfer to St. Luke's was given within a few years past.

Q. State whether there is any order of the vestry prohibiting free access to the list of corporators? A. There is no order to that effect; the superior officers have never refused to my knowledge any one. I cannot say what the clerks may have done. The books lie in places, open all day at least, and the one containing the pew-holder corporators is in the outer office, where pew rents are collected, and frequently examined by any one, I think, who has the curiosity. The book containing the list of

communicant corporators is kept in an inner office on an open desk; I never knew the examination of it refused.

Q. Do you know of any other of the old Episcopal church charters in this State, granted in the same terms as that of Trinity Church? A. The old form of holding church property before the revolution, was the rector, wardens, and inhabitants of the town, or city in which it was, in communion of the church of England. Several of these were altered to conform to the new state of things after the revolution, retaining their own name, except modified as to the church of England. Trinity Church was, by a special act; St. Peter's, Albany, was so modified; the church with which I have been long connected, in Fishkill, Dutchess county, holds its burial ground and buildings under a title in the same form. It reincorporated itself under a general act, passed in 1797, and its corporate title is, "the rector, wardens and inhabitants of Fishkill, in communion of the Protestant Episcopal church." There are two other Episcopal churches, which have been established for more than twenty years, in the same township, but they have never claimed either the property or the right to vote.

By the committee.—Q. If the lots to St. Luke's hospital were given, or considered by the church their property to give, why were they omitted in their report made in 1856? A. I presume for the reasons already stated, that they were not directly given, but substantially so, and therefore, requiring a long explanation, and deeming it impossible to state it briefly in an account or abstract.

Q. Did not the city corporation insist that Trinity had no right to those Duane-street lots? A. I do not know that they ever insisted: but we were legally advised that our right of re-entry was perfect; and those who represented the corporation were willing to make the arrangement I have mentioned, and to receive our formal release.

Q. Did the city corporation dispute your right to the lots? A. It may have been verbally denied by counsel or officers, but

they were sufficiently satisfied of our right to give a valuable property for the release of our right, as we requested.

Q. Did you ever look at the book of corporators kept in the inner office? A. Yes, I have looked at it in order to see if persons were not entitled to be entered as corporators who were omitted through their own negligence or indifference, and I believe there were many such.

Q. Did you ever look at the cash book or book of original entries? A. I have not, never having had occasion to do so, and never having audited any accounts except those of the chapel building.

Q. Did you, as a member of the vestry, know and approve of the form of the lease of pews in Trinity chapel, at its opening? A. I did know of it, and did not approve of it, because I considered it a measure of over prudence, calculated to expose us to misrepresentation and perhaps to give offence. The motive of those, however, who carried it through, was that of precautionary prudence against the intrusion of a body of pew-holders who had no sympathies with us or any other church. It was recommended by a committee and approved by a majority of the vestry. It was repealed before it could have any practical effect

Q. Do you know of any churches set off from Trinity Church since 1814? A. None have been.

Q. Do you find any difficulty in getting at the value of your property when you sell or lease? A. We are happily in a situation not to be obliged to sell or lease until we get offers, and it is then a subject of negotiation with our officers or committees, of which I am not one.

Q. Is there any difficulty in getting at the fair value of your property, when it is in a condition to sell or to lease? A. When the lease has expired there is not.

Q. Do you know of any appropriations by Trinity Church, for other than charitable, religious or educational purposes?

A. In the management of so large a property, there may be many miscellaneous purposes which I cannot mention in detail, for instance; patriotic purposes, of which I mention three instances, involving some expense, not discreditable to the church. In Trinity churchyard were interred the remains of the late gallant Capt. Lawrence, whose memory is perpetuated by his last words, "Don't give up the ship." A monument had been erected to his memory, at public expense, badly built, though well meant, and for forty years it had fallen into decay. It was rebuilt at the expense of the church, in suitable and permanent style, retaining its former inscription. A similar instance within my memory, was the restoring and repairing of the monument, covering the remains of Alexander Hamilton. A third instance is the monument now erecting, on the remains of revolutionary soldiers, buried in the western part of Trinity churchyard. The monument of Gen. Montgomery in front of St. Paul's, and in the church, has been repaired and improved. I presume that the erecting of a monument, creditable as a work of art, to the late Bishop Hobart, can hardly be considered as coming within the term, charitable, or religious. There are others in the management of the real estate, which any other large landholder would pay.

By the counsel for Trinity Church:

Q. Do you know of any improper appropriation of the funds of the church? A. I know of none for improper purposes.

Q. Have any churches offered to be set off from Trinity, since 1814? A. None.

The committee, by request, put the following question:

Q. Do you know or have you been informed, whether Trinity Church has recently had any person employed as counsel or otherwise, belonging or attached to the judicial, executive or legislative department of the State government? A. I do not know of any, and I add, that from my position on committees of a legal and executive character other than the financial and standing committee, I must have known if any such person had been employed now or for some years past; and I therefore say,

that the church has employed no person now in the judicial, executive or legislative department. I was recently asked, whether a certain person coming within that description had been retained, and I at once answered, "No." Except those who now appear before you professionally on this examination, there is no person employed in this matter except Mr. De Zeng, who openly appears as our agent.

Adjourned to 10 A. M., Monday.

MONDAY, *February* 23, 1857.

Present: Senate committee. Messrs. SPENCER, NOXON and RAMSEY; for Trinity Church, Judge PARKER and O. MEADS, Esq., Counsel.

Gen. John A. Dix, called and sworn. Examined by counsel for Trinity Church:—Q. Will you state generally the facts within your knowledge in regard to the charges made against the vestry of Trinity Church? A. About ten day ago I was subpœnaed to attend the committee as a witness; being occupied with important business, and fearing I should be unable to attend before the labors of the committee were closed, I prepared a communication addressed to the chairman of the committee, and sent it by Mr. Livingston, last week. The session of the committee having been extended beyond my expectations at that time, I thought it proper to appear before them in person. I have this communication with me, and if the committee will permit me to read it, I think it will save them a good deal of time in preparing questions, and myself a good deal of inconvenience in writing out answers.

The committee assented to the reading of the communication in answer to the foregoing question, which is as follows:

I have just seen and read the report made to the Senate on the 29th ult., by the committee of which you are chairman, together with the testimony appended thereto; and as there are imputations therein derogatory to the character of the vestry of Trinity Church, of whom I am one, both as regards their fairness and

their discreetness in the execution of their trust, I ask leave to submit to the committee the following statement: Business of a very urgent nature, affecting the interests of others, which I should be inexcusable for neglecting, prevents me from visiting Albany. I should otherwise have appeared before the committee, and asked them to take my testimony orally, instead of soliciting their indulgence so far as to allow me to present it in the form of a written communication.

I was appointed a vestryman in the autumn of 1849, and have served in that capacity to the present time, with the exception of ten months in 1854 and 1855, during which I was absent from the country, and occasional temporary absences from the State at other times. I have attended with a good deal of regularity the meetings of the vestry, and have taken a somewhat active part in its proceedings.

I do not propose to trouble the committee with any discussion of the legal rights of the corporation under the original grants, by which it holds its property, or the legislative enactments by which its corporate powers have been confirmed or enlarged. Nor do I intend to offer to the committee any opinion with regard to the true interpretation of those enactments or grants. The sole object of this statement, which is made on my own responsibility, is to present such explanations as seem to me necessary to exonerate myself and my associates from charges which have been brought against us by some of the witnesses, and which do us, as I conceive, great injustice.

I beg leave to say further, with perfect respect for the committee, and the body by which it was appointed, that in presenting this statement I have not overlooked the vital relation which an inquiry instituted by one branch of the Legislature, through the action of a committee, into the administration of the internal affairs of a religious corporation, bears to the rights of every ecclesiastical body in the State. I do not admit the existence of such an authority as has been exercised in regard to the body with which I am connected, more especially when carried so far as to solicit *ex parte* opinions concerning the motives under which individuals may have been supposed to

act. And I cannot but think, when the question is deliberately considered, that it will be found to possess a most important bearing upon the rights of conscience, which it was one of the leading objects of the Constitution to secure; a question well worthy, under this aspect, of the most serious public regard. If I have chosen to meet, with a reservation of rights, which I deem inviolable, the imputations cast upon me and my associates, instead of passing them by in silence, it is in order that the minds of the committee, the Legislature, and the community may not be misled by the testimony in which those imputations are contained.

Soon after my connexion with the vestry commenced, my attention was attracted to the financial condition of the corporation, which seemed to me very unsatisfactory Its debt amounted to nearly half a million of dollars, and by reason of the large donations it was in the habit of making to other churches its revenue had become inadequate to its expenditures, and the annual deficits were made up by a sale of property. I regarded this practice, though founded upon a generous consideration for the wants of other parishes, and a desire to promote the advancement of the interests of the Episcopal church in the city and the State, as opposed to all sound principles of finance. No fund or endowment can long withstand a regular consumption of its principal. Encumbered as the church property was by leases, it could rarely be sold in any considerable parcels, without serious sacrifice; and it was my opinion that the contributions of the church, instead of being enlarged, should be curtailed, that its debts should not be increased, that its expenditures should, if possible, be brought within its income, and that its property should, as a general rule, be preserved until the expiration of its leases, when it could be sold without loss; thus leaving the church in condition to carry out with vigor and success the great plan of ministration, which seemed to me to be clearly marked out by changes in progress in the distribution of business and population throughout the city.

In accordance with these views, when it was decided to build a chapel in the upper part of the city, in order to preserve to

the church its ancient parishioners, who had removed in large numbers from the neighborhood of Trinity church, and St. Paul's, and St. John's, I introduced a resolution providing that the corporate debt should never exceed the sum of two hundred and fifty-thousand dollars beyond the amount of its bonds and mortgages, exclusive of those given by churches. The latter were excepted for the reason that they have never been regarded as an available resource. No interest is collected on them, and they are, in fact, held by the corporation for the purpose of preventing, in case of emergency, the property to which they attach, from being devoted to secular uses. The resolution referred to, after being amended so as to increase the limit of the debt to three hundred thousand dollars, was adopted.

It is due to entire frankness to say, that I was opposed to the construction of Trinity chapel, believing the private wealth of the district, for which its ministrations were designed, sufficient to furnish them without the aid of Trinity church. At the same time, there were arguments in favor of the measure, on the score of justice and practical usefulness, which it was not easy to answer, and solicitations from old and faithful friends of the church, who had removed to the upper part of the city, too earnest and persuasive to be resisted by the vestry, many of whom had been their associates from an early period in life, and who were naturally reluctant to dissolve the connection as they approached its close.

The measure having been resolved on, the vestry adopted a plan, which the architect estimated to cost forty thousand dollars. I urged its adoption, on the ground of its comparatively small cost, and I particularly pressed on the vestry the consideration that in the principal parish church enough had been done by them for the embellishment of the architecture of the city. At a subsequent meeting, a majority of the vestry, deeming the proposed edifice too small, or perhaps too plain for the position it was to occupy, adopted another plan, estimated by the architect to cost seventy-nine thousand dollars. It was never intended by the vestry to exceed that sum. But those who have had any

experience in building churches, know not only how little confidence is to be placed in such estimates, but how difficult it is to adhere to original designs; and they will be disposed to consider the vestry, who ultimately found themselves involved, greatly to their disappointment and annoyance, in an expenditure of two hundred and thirty thousand dollars, for the chapel and site, as objects of sympathy rather than censure.

This unlooked for expenditure, and the continued annual contributions to other parishes, which the vestry were unwilling to abridge, have carried the corporate debt up to the enormous sum of six hundred and sixty-eight thousand dollars, exceeding, by the sum of $469,000, its available bonds and mortgages.

It is well known that the greater part of the city below Chambers-street is devoted to purposes of business, and that private dwellings have given place to stores and warehouses. The wealthy portion of the population has gone to the upper districts, and most of the churches of all denominations have followed them. The North Dutch, which is still engaged in useful spiritual labors in the neighborhood of St. Paul's; the Methodist church in John-street, unhappily rent by internal strife; and St. Peter's, a Roman Catholic church on Barclay-street, still maintain their ground. With these exceptions, Trinity church, St. Paul's, and the church in Beekman-street, formerly St. George's, purchased and now entirely supported by Trinity, stand alone in this great deserted field of labor. The same process is going on above Chambers-street; and in a few years there will, in all probability, be no churches below Canal-street but those of Trinity parish. Notwithstanding this exodus of wealth, a vast population, the inhabitants, in great part, of alleys, garrets and cellars, estimated to exceed one hundred and twenty thousand souls, occupy the field it has abandoned; and if Trinity church had followed the same instincts, which have drawn off the other religious societies of the city to its more attractive districts, if she also had abandoned to their fate the poor and necessitous, whom wealth and fashion have bequeathed to her, the lower part of the city would have presented an example of religious destituion unparalleled in the history of Christian civilization.

It was in view of this great change in the condition of the population of the city that I introduced into the vestry on the 10th April, 1851, the following resolutions:

Resolved, That the standing committee be instructed to report a plan by which the expenditures of the corporation shall be limited to its income.

Resolved, That the said committee be instructed to inquire into the expediency of making the seats in Trinity Church and in St. Paul's and St. John's chapels free.

Resolved, That the said committee be instructed to inquire into the expediency of establishing free schools in connexion with Trinity Church and its chapels.

Resolved, That the said committee be instructed to inquire into the expediency of devoting the funds of the corporation, as far as may be practicable, after making provision for the support of the new chapel in 25th-street, to the education and religious instruction of the poor of the city.

The last resolution, as originally presented, was confined to the poor of the city below Canal-street, and, on the suggestion of a member of the vestry, it was, in view of future contingencies, amended so as to embrace the whole city.

This is the plan which, nearly four years ago, I deemed it my duty to bring before the vestry. It was supported by a somewhat labored argument, which was not committed to paper, and which I will not tax the patience of the committee by attempting to recall to remembraee. I trust, indeed, that no such exposition is necessary, and that the resolutions sufficiently explain their purpose. Their design was to rescue the lower part of the city—that portion which has not only an immense body of resident poor, but which receives into its bosom the greater part of the destitute, who seek a refuge here from hardships in other countries—to rescue this combined mass of permanent and temporary indigence from the utter spiritual abandonment with which it was threatened by the removal of those to whose wealth and liberality it had been accustomed to

look for sympathy and pecuniary aid, to more congenial districts. The plan comprehended not only the spiritual instruction of the adult inhabitants of this deserted district—once the seat of nearly all the wealth of the city—but the education of their children, and, to the extent of the means of the corporation, a ministration to their temporal wants. Trinity Church, with its endowments, fortunately growing more valuable with the progress of the city, was to stand in the place of the individual opulence, which has fled from a district where its tastes could no longer find suitable fields for indulgence, and established itself in others, where it has rivaled Genoa in its streets of palaces, and where in all its appointments and manifestations of indoor and outdoor life, there is a concentration of refinement, luxury and splendor unequalled, excepting by a few of the great capitals of Europe.

It is possible that I may have looked upon this plan with that undue partiality which individuals are apt to feel for suggestions originating with themselves. But it has seemed to me to have been among the designs of Providence that Trinity Church should have been planted in this great district, ready with her ample endowments, to make provision, when the emergency should arrive, for those whom individual wealth has left upon her hands. I hold this to be the great mission of Trinity Church, and I have pressed on the vestry, on all proper occasions, the duty of preparing for it, and of commencing the work with the utmost diligence. Though the plan has not been formally adopted, it has been practically acted on; and it is due to my associates in the vestry to say, that they have responded to all appeals in behalf of the destitute districts below Canal-st., by as liberal an expenditure as the income of the corporation, crippled by a heavy debt, and burdened by large annual contributions to other churches, has admitted. The clerical force of the parish has been nearly doubled? the Sunday schools have greatly enlarged; parish schools for the gratuitous education of children have been established; by far the greater part of the pews in Trinity Church, one hundred and four out of one hundred and forty-four in St. Paul's and a large number in St. John's have been made

free; efforts have been put forth to bring into the church those, who have not been accustomed to attend any religious worship; Trinity church is opened twice every day throughout the year, for divine service; a mission office has been established to receive applications for aid; lay visitors are employed to seek out want and relieve it; missionary agencies have been instituted in connection with the Commissioners of Emigration; the whole lower part of the city has been virtually made a field of missionary labor, and a degree of energy has been infused into the ministrations of the church, temporal and spiritual, which compensates, in a great degree, for the lost support of the religious societies removed to other districts. In the midst of all this earnest effort, with five of her clergy residing within this neglected field of labor, conversant with little else than its destitution, and devoting themselves to the relief of its wants, Trinity Church finds herself assailed, as faithless to her trust, by those, for the most part, whose lives are past amid the social amenities of the upper districts, and in an atmosphere redolent of indulgence and luxurious ease.

It was not supposed by me, when this plan was brought forward, that it could be fully carried out, until a considerable portion of the leased property of the church should become available for the purpose. It was only expected that a beginning should be made, and that the plan, in its great outlines, should have a practical adoption. However earnest the desire to put it in operation at an earlier period, the unexpected augmentation of her debt, not only renders such a desire hopeless, but manifests that it may be even further postponed, or possibly defeated, without a prudent husbandry of her resources.

For the better illustration of this point, I annex a statement of the revenue and ordinary expenditures of the corporation, for the year ending the 30th April, 1856.

Revenue.

1.	From ground rents of real estate, ...	$67,359 53
2.	" pew rents, ...	6,998 50
3.	" interest on bonds and mortgages, ...	13,259 40
4.	" Trinity Church cemetery, ...	4,155 92
		$91,773 36

Expenditures.

1. Parish expenditures, including, (besides those obviously such) charges upon, and expenses of management and care of the property of the church, necessary diocesan expenses, and annuities to families of deceased clergymen, or to officers of the parish,	$71,344 22
2. Interest on debt,	36,522 15
3. Allowances, donations, and loans to other churches,	32,052 42
	$139,918 79
Deduct revenue,	91,773 36
And there is a deficit of,	$48,145 43

for the year ending 30th April, 1856.

The deficiency for the year ending 30th April, 1857, was estimated on 1st May last, at $40,638.66. The grants actually made by the corporation, to clergymen and churches, to be paid during the year, in addition to the regular allowances, amount to $11, 640, and the appropriations for building school-houses and renovating and enlarging St. John's chapel, to $28,000, making together $39,640 00

Deduct cash on hand 1st May, 1856,	10,016 38
	$29,623 62
Add estimated deficiency,	40,638 66
And there will be a deficit of	$70,262 28

for the year ending the 30th April, 1857.

This deficit can only be made by selling real estate. The deficits for the last ten years, exceed two hundred and seventy thousand dollars, and the corporation has provided for them by selling lots and applying the proceeds to the augmentation of her insufficient income. While she is assailed as niggardly in her donations, and as engaged in a systematic accumulation of her capital, she has in fact, for years, been selling her real estate, and meeting with the proceeds, the pressing demands on her, a large portion of which, have grown out of her contributions for the support of other churches.

The estimated expenditure of the present year, continued till 1862, would consume so much of the Lispenard lease, which becomes disencumbered in that year and embraces a large and valuable part of her real estate, as to leave her a balance insufficient to pay her debt, which is now..... $668,813 00
This debt may be reduced by mortgages,..... 199,469 00

To the sum of, ... 469,344 00
Add deficits of $70,278.66 for five years,..... 351,311 40

And there will be the sum of..... $820,655 40
to be provided for by sales of real estate; a sum exceeding the highest estimate in the report of the committee of the value of the Lispenard lease; and unless the prices of real estate become greatly enhanced during the next five years, nothing will remain of the lease referred to, after discharging the pecuniary obligations above specified, a portion of which must be provided for by sale of other property.

The expenditures of the parish cannot be materially abridged without prejudice to its interests; and the vestry are unwilling to reduce the annual allowances to other churches, believing that such a reduction would cause great inconvenience to the recipients, and, in some cases, impair to a serious extent the efficiency of the parishes thus assisted.

In regard to the necessity of allowing the capital of her endowment to be consumed by the current expenses of the church, I have differed in opinion with a majority of the vestry. While they have deplored it and yielded to it as a necessity, I have been in favor of meeting it by retrenchment, and bringing down the expenditure, as nearly as may be, to the standard of the income. I have urged this duty on the vestry as one demanded by every maxim of financial prudence, and with the less reluctance as the inconvenience to result from it would be of short duration; for if the real estate disposable in 1862, or the great mass of it, can be kept undiminished until that time, the church will be in a condition to prosecute the great plan of ministration she has entered on, with an efficiency which cannot fail to

produce results of the highest importance to the city and the State. If I have thought the vestry in error in this respect, it is not because I have considered them lacking in liberality, but because they have yielded under impulses highly honorable to their feelings,to an outside pressure for contributions, which, in view of the deep and lasting interests involved in the question, I would have resisted.

This is, in truth, the only ground of apprehension in regard to the success of the plan of religious instruction for the poor in the lower part of the city. It must utterly fail if Trinity Church, for the purpose of meeting a regular series of annual deficits in her revenue, caused to a great extent by her contributions to other churches, shall consume her real estate; and for this reason I would incur a temporary inconvenience for the purpose of carrying out a great system, the benefits of which would be incalculable in value and endless in duration.

To hold her real estate until it is unencumbered and can be sold without sacrifice, is in no just sense, an accumulation of capital. To accumulate, is to augment by a reinvestment of income, or in other words, to convert revenue into principal. If her income exceeded her necessary expenditures, if, instead of contributing it to the wants of others she were to withhold it, and use it for the augmentation of her capital, she would be fairly obnoxious to the imputation cast upon her. Instead of erring in this direction she has, as has been shown, been for a series of years expending large portions of the principal, and mainly for the purpose of making donations to other parishes.

In proof of this position, I submit the following statement of the receipts and expenditures of the corporation for the last ten years, with the annual deficits of income, and the allowances, donations and loans to other churches. I have prepared it from the books of the corporation, and it has been examined and compared by Mr. Dunscombe, the comptroller, and myself, with a general statement of the financial affairs of the church for the same period, made by Mr Roach, an experienced accountant, and I believe it to be in all respects correct.

Year ending 30th April, 1847.

Revenue,	$68,498 47
Expenditure,	94,791 93
Deficit,	$26,293 46
Allowances to other parishes,	$10,825 00
Donations,	5,134 00
Loans,	500 00
Total allowances, &c.,	$16,559 00

Year ending 30th April, 1848.

Revenue,	$74,258 54
Expenditure,	95,984 28
Deficit,	$21,725 74
Allowances to other parishes,	$10,175 00
Donations,	7,800 50
Loans,	3,900 00
Total allowances, &c.,	$21,875 50

Year ending 30th April, 1849.

Revenue,	$78,869 85
Expenditure,	88,096 79
Deficit,	$9,226 94
Allowances to other parishes,	$12,600 00
Donations,	4,889 14
Loans,	3,800 00
Total allowances, &c.,	$21,289 14

Year ending 30th April, 1850.

Revenue,	$77,799 63
Expenditure,	95,741 11
Deficit,	$17,941 48

Allowances to other parishes,	$13,000 00
Donations,	4,705 18
Loans,	12,198 00
Total allowances, &c.,	$29,903 18

Year ending 30th April, 1851.

Revenue,	$75,871 31
Expenditure,	100,233 44
Deficit,	$24, 362 13
Allowances to other parishes,	$13,683 00
Donations,	4,488 13
Loans,	9,377 00
Total allowances, &c.,	$27,548 13

Year ending 30th April, 1852.

Revenue,	$77,979 77
Expenditure,	108,317 39
Deficit,	$30,337 62
Allowances to other parishes,	$14,715 00
Donations,	12.806 72
Loans,	7,650 00
Total allowances, &c.,	$35,171 72

Year ending 30th April, 1853.

Revenue,	$86,073 97
Expenditure,	110,592 66
Deficit,	$24,518 69
Allowances to other parishes,	$16,785 00
Donations,	9,186 21
Loans,	7,700 00
Total allowances, &c.,	$33,671 21

Year ending 30th April, 1854.

Revenue,	$85,710 53
Expenditure,	137,078 99
Deficit,	$51,368 46
Allowances to other parishes,	$21,706 00
Donations,	6,916 26
Loans,	17,100 00
Total allowances, &c.,	$45,722 26

Year ending 30th April, 1855.

Revenue,	$95,195 72
Expenditure,	114,677 30
Deficit,	$19,677 30
Allowances to other parishes,	$15,058 33
Donations,	7,290 16
Loans,	2,000 00
Total allowances, &c.,	$24,348 49

Year ending 30th April, 1856.

Revenue,	$91,773 36
Expenditure,	139,918 79
Deficit,	$48,145 43
Allowances to other parishes,	$15,500 00
Donations,	10,552 42
Loans,	6,000 00
Total allowances, &c.,	$32,052 42

Recapitulation.

	Deficits.	Allowances, &c.
1847,	$26,293 46	$16,559 00
1848,	21,725 74	21,875 50
1849,	9,226 94	21,289 14
1850,	17,941 48	29,903 18
1851,	24,362 13	27,548 13
1852,	30,337 62	35,171 72
1853,	24,518 69	33,671 21
1854,	51,368 46	45,722 26
1855,	19,677 30	24,348 49
1856,	48,145 43	32,052 42
	$273,597 25	$288,141 05

Analysis of Allowances, &c.

	Allowances.	Donations.	Loans.
1847,	$10,825 00	$5,134 00	$600
1848,	10,175 00	7,800 50	3,900
1849,	12,600 00	4,889 14	3,800
1850,	13,000 00	4,705 18	12,198
1851,	13,683 00	4,488 13	9,377
1852,	14,715 00	12,806 72	7,650
1853,	16,785 00	9,186 21	7,700
1854,	21,706 00	6,916 26	17,100
1855,	15,058 33	7,290 16	2,000
1856,	15,500 00	10,552 42	6,000
	$144,047 33	$73,768 72	$70,325
Allowances,		144,047 33	
Allowances and donations,		$217,816 05	
Loans,		70,325 00	
		$288,141 05	

By this statement, it appears that the deficits of revenue in the last ten years amount to $273,597.35, and the amount given away and contributed to the support of other parishes is $288,141.05, exceeding the aggregate deficit by the sum of

$15,573.80; and, as I have already said, the whole deficit of the ten years, incurred for the benefit of others, has been made up by a sale of real estate, and is to that extent, a consumption of principal.

Several of the witnesses have testified that, in granting aid to other churches, the vestry have acted under the influence of party-feeling, refusing assistance to those who differ with them in opinion, and granting it freely to those whose views are in accordance with their own.

I feel it to be my solemn duty to repel this imputation, by stating my own experience. I have been more than seven years a member of the vestry, and have been on terms of the most unreserved and confidential communication with my associates. I have discussed with them the propriety of granting and declining applications for aid, not only at nearly all the meetings of the vestry, but in many cases in private interviews; and no reference has ever been made by me or by any one of them, at any meeting, official or private, to the party views of any of the rectors, or religious societies presenting such applications. The party divisions, which have existed for several years in the Episcopal church, and which have not only impaired its capacity for doing good, but dishonored those on both sides who have been active in keeping them alive, have never been a subject of discussion at any meeting of the vestry which I have attended; nor have they been alluded to in connexion with applications for aid. I have taken a deep interest in several applications myself, and have, perhaps, had some influence in securing grants of money to the applicants, and in no instance, have I inquired what were the particular views of the rector of the parish to which they belonged. I do not even know to this day whether they are high church or low church. The only inquiries ever made were in regard to their pecuniary and social condition and their need of assistance; and these considerations, together with the ability of Trinity Church at the time to make the grants asked for, and the probability that the grants would be effective for the objects in view, have been the only ones which have guided me in my votes. I believe the other members of the

vestry have been equally free from the influence of party motives. My belief is founded upon my knowledge of them as enlightened, conscientious and liberal men, and upon all they have said and done in my presence through a familiar association of seven years. I cannot be supposed to have been deceived in regard to their principles of action, but upon the hypothesis of a depth of dissimulation on their part and an obtuseness of perception on my own, too gross for the largest credulity.

I can say with the same confidence, that I do not believe those who have the management of the affairs of Trinity Church, have sought, during the period of my connection with them, a period of a good deal of excitement, to influence rectors or parishes on any question in the diocese through the imstrumentality of her donations. It is due to others to add, that I have for several years attended the conventions of the diocese and become acquainted with a large number of the clergy, I have rarely met a more intelligent or independent body of men ; and I regard the intimation that they would be governed in the doctrines they teach or in the official acts they have to perform, by considerations arising out of the pecuniary aid their parishes may have received from Trinity Church, as alike ungenerous and unjust. In a word, I consider all these imputations of influence on the one hand and of subserviency on the other, as the offspring of mere groundless suspicion ; and they are in some instance so loosely hazarded, as to make it the part of charity to refer them to the same narrow and distempered views of duty, which are falsely imputed to the vestry of Trinity.

I have thus laid before the committee, with entire frankness, a statement of my connection with Trinity Church, and the part I have borne in the management of her financial affairs, and the great scheme of religious and temporal ministration, which I desire to see carried out under her auspices and through the aid of her endowments, in the lower districts of the city. I do not believe the importance of giving effect to this plan can be overstated. The funds of Trinity Church are the only resource for accomplishing it ; she must execute it or it will fall to the ground, and the district in which three of her church edifices

stand, become nearly desolate for all spiritual purposes. The prosperity of the city is deeply involved in it; destitution, temporal and spiritual, goes hand in hand with crime; and when even now the spirit of acquisitiveness which is characteristic of the age, and has become its greatest scourge, is dishonoring it by forgeries the most bare-faced and staining it by murders the most foul, what shall be our social condition, if, in a large portion of the city, destitution and spiritual neglect shall combine with cupidity to arm the hand of violence and stimulate it to still grosser outrage. What higher office can Trinity Church fulfill, what higher benefit can she confer on the classes which have the deepest stake in the security of property and life, than by devoting herself, as she is now doing, to make the lessons of religious and social duty familiar to those who, under the pressure of their physical wants, have the strongest temptation to forget them?

In the upper districts, the possessors of nearly the whole private wealth of the city have become domesticated. There is more than one congregation, the individual possessions of which are believed to exceed in value, with the largest estimate ever put on it, the entire property Trinity Church holds, for the support of her four congregations. Those whom fortune has thus overburdened with her gifts, should be willing to leave unimpaired, the endowments of Trinity Church, that she may make suitable provision for the poor, whom they have left to her care; and, whatever may be the narrowness of spirit which presides over particular circles, no doubt is entertained of the generous and catholic feeling which pervades the great body of the opulent classes. No city has more cause to be thankful for the munificence with which some of her richest men have contributed to the great objects of social improvement within her limits; and it is most gratifying to add, that in more than one instance, the wealth which exists in the largest masses, has been poured out with the noblest profusion, to build up literary and charitable institutions for the common benefit. To such a spirit of munificence, no appeal to relieve the destitution which hangs upon the outskirts of the upper districts, need be addressed

in vain. If among those, to whom providence has committed the spiritual guidance of these favored classes, there are any who seek to compel Trinity Church to scatter her endowments broadcast over the city, and thus disqualiy herself for the great work of charity devolved on her, in the district in which her lot has been cast; if there are any who are engaged in inculcating an antiphonal beneficence, the utterances of which are to be given only in response to those of Trinity, it is suggested, with the profoundest deference, whether a nobler field for the exercise of their influence, does not lie directly before them. Whether the great ends of their calling will not be better subserved by laboring to infuse into surrounding atmospheres, over cast with penury and want, some of the golden light which irradiates their own.

The State, nay, the whole country, has a deep interest in this question. The city of New-York, embodying as she does, to a great extent, the commercial and financial power of the Union, must exert a sensible influence upon the moral and intellectual character of all with whom she is brought into association. The slightest agitations on her surface undulate in all directions to the great circumference, of which she is the centre. On Trinity Church are devolved, in the order of events, the spiritual instruction and guidance of the district, by which she is brought most directly into contact with all that lies beyond her limits. If this duty is not faithfully performed, no voice should be raised in palliation of the delinquency. On the other hand, if any of those who have withdrawn from this part of the city, the wealth which providence has, in such disproportion, bestowed on them, shall seek to deprive the destitute, whom they have left behind, of their sole resource for spiritual instruction and the alleviation of their temporal wants; if they shall succeed by mis-stating the condition, and unjustly impeaching the motives of Trinity Church, in defeating her efforts to carry out the great system of labor with which she is occupied, they will incur the gravest and the most odious of all responsibilities, that of consigning one of the most important districts in the emporium of the Union to an intellectual and spiritual death.

By the Senate committee:

Q. Were not Mr. Curtiss and Mr. Wolfin the vestry of Trinity Church? A. I think that Mr. Wolf ceased to be a member of the vestry before I became a member of it. Mr. Curtiss is now a member of the vestry.

Q. Would not they be as likely to understand the affairs of the vestry as other members of it? A. I think they have the same opportunities that other members of the vestry have

Q. Do you or do you not know that the church reported in 1854, the church mortgages as part of her capital? A. I do not know; as I have stated in my communication, I was out of the country during part of the years 1854–55.

Q. Are there not free schools provided in New-York for all classes? A. I understand there are, by the State.

Q. If the vestry of Trinity had adopted the first plan proposed for building Trinity chapel, at a cost of $40,000, would not their debt have been now less by nearly $200,000? A. If the plan had been adhered to, and had cost no more than the architect estimated, a much less sum than $230,000 would have been expended on the chapel and site. In the cost of $230,000 is the expense of site. Whether the debt of the corporation would have been less now, of course, I cannot say.

Q. Do you not consider that the estate of Trinity Church is now of much greater value than at any previous period? A. That question I cannot answer. I am not a member of the finance committee, and therefore am not acquainted with the details of the value of property.

Q. Do you or do you not know that there have been applications to the Legislature for the repeal of the law of 1814? A. I am not aware of any such application.

Q. Were you acquainted with the proceedings of the vestry in respect to the valuation of the St. John's Park property? A. I was not present at the first meeting when that subject was brought before the vestry. I was present, I think, at the meet-

ing at which that subject was discussed. My impression is, that the vestry at first refused to entertain the proposition at all ; but at the earnest solicitation of nearly all the owners around the park, they finally agreed to release their interest if they could receive the sum of $400,000. I never understood this to be considered as the value of the property, but rather as the measure of the damage that would be done to Trinity Church by destroying the park. This was my own view of the subject, and I considered the interest of Trinity Church so remote and contingent that I would not have undertaken to put a valuation upon it in money.

Q. Were you acquainted with the making of the report of Trinity Church, in February, 1856 ? A. No, sir. I was out of the State.

Q. Have you stated in your written testimony what amount Trinity Church pays to Bishop Potter as his salary ? A. The amount is embraced in the aggregate expenditure, but is not specified.

Q. Will you please to state it ? A. I think it is $1,600. Mr. Minturn and Mr. Bradish, who were members of the committee with myself, appointed by the convention of the diocese, for the purpose of apportioning the Bishop's salary among the churches of the diocese, thought Trinity Church should pay a larger sum, and I think on the ground of her endowment.

Q. From what you know of the value of real estate in the city of New-York, would you not think that the property of Trinity Church is increasing in value ? A. I have no doubt it is.

Q. I perceive by the report of Trinity Church, that the leases of a large number of lots have expired, or are about expiring. I would ask whether it is your opinion the vestry should sell those lots, and pay their debts, or lease them ? A. It is my opinion they should sell the lots and the debts of the corporation be paid.

Q. Do you think the majority of the vestry agree with you in that opinion ? A. That I cannot say.

Q. Is there not, in certain parts of the city of New-York, a great scarcity or want of churches—I mean in the eastern part of the town, and in the 4th, 6th, 13th and 14th wards? A. I am not acquainted with the limits of the wards; though I have no special knowledge, I have no doubt churches might be established with advantage in many parts of the city.

Q. After selling sufficient property to pay the present indebtedness of Trinity Church, in your opinion, should her policy be to retain the balance of her real estate and appropriate only the income of it? A. I cannot say that I have had any definite plan with regard to the future. My idea has been that her debt should first be paid; that her property should, as far as practicable, be preserved until it could be sold without loss; and that when she has set apart the funds necessary to take care of the lower part of the city, I would be very liberal in donations to other churches, not only of income, but of principal, where it could be done without impairing her own means of usefulness in her particular sphere of duties.

Q. When the leases expire, could not the property of Trinity Church be made more productive by a sale than by re-letting; and would not the sale be more beneficial to the interests of the church and city? A. It is a very large question, and one that I am not prepared to answer at this time. I will add, that I have been in favor of selling her property whenever it could be done advantageously.

Q. Cannot the property be now sold to advantage, subject to the leases referred to? A. As a general rule I should think not; though I have no doubt that some particular pieces of property or lots may be.

Q. What do you think of the policy of making some of the large grants to the up town churches, the Annunciation and St. Luke's? A. I was not at the meetings of the vestry, I think, at which those two grants were made; and I cannot, therefore, speak of the special inducements for making them.

Q. When acting as a vestryman of Trinity, do you consider yourself acting as a vestryman of Trinity parish only, or as a

trustee for Episcopalians in the city of New-York generally? A. I consider myself as acting as a trustee for Trinity parish only.

By counsel for Trinity Church:

Q. What can you state with regard to the mortgage held by Trinity Church upon Zion church, in Mott-street? A. My recollection is that Trinity Church loaned to Zion church, in Mott-street, in 1830, the sum of $7,000. In 1850, on the removal of the church to Murray Hill, Trinity Church transferred the loan of the mortgage to the new church, which was to be built, and remitted the interest of the old mortgage for the twenty years, which amounted to $9,800.

Q. Can you tell me whether this (presenting the following paper) is a copy of a resolution from the minutes of the vestry of Trinity church? A. It is. I compared it with the original minutes. The following is a copy:

Extract from the Minutes of the Corporation of Trinity Church, held on the 28th day of March, 1812.

RESOLUTION.

Report of committee on the state of the church:

It having been represented to this board, that certain persons belonging to Protestant Episcopal congregations in this city, which have been incorporated as separate and distinct from the corporation of Trinity church, and who are not pew holders in Trinity church, or any of its chapels, claim a right to vote at the annual elections for church wardens and vestrymen of Trinity church, therefore—

Resolved, As the unanimous sense of this board, that no other persons except inhabitants of the city of New-York, who profess themselves members of the Protestant Episcopal church, and hold, occupy or enjoy a pew or seat in Trinity church, or one of its chapels, and regularly pay to the support of the said church, or regularly worshipping therein, shall partake of the holy sacrament of the Lord's Supper, in the said church, or one of its chapels, at least once in every year, are entitled to vote at the said elections.

Examination by counsel for Trinity Church.—*John R. Livingston* called and sworn :

Q. How long have you been a vestryman of Trinity Church ? A. I was elected, I think, in January, 1847, and have continued to this time.

Q. What Episcopal churches were there in the city of New-York, independent of Trinity Church, prior to 1814, and which of such churches were built by Trinity Church ? A. There were nine Episcopal churches, independent of Trinity and her chapels ; three of which were built by Trinity Church. They were St. George's chapel, Grace church and St. Mark's church.

Q. How has the increase of parishes in the city of New-York, since 1813, compared with the increase of the population of the city ? A. In 1814, there were twelve congregations, including those of Trinity parish. In 1847, there were thirty-five congregations. In 1857, there are, as appears in evidence, fifty congregations. The increase from 1814 to 1847, a term of thirty-three years, was twenty-three congregations. The increase from 1847 to 1857, a term of ten years, is fifteen congregations. In 1814, the population was 105,000, according to the testimony of Mr. Winston. In 1857, the population is said to be about 650,000. Some of the recently built churches, are very large. I will instance St. George's church, Calvary, Trinity chapel and the church of the Transfiguration.

Q. Has Trinity Church ever foreclosed any of the mortgages received for loans to churches ? A. I am quite sure she never has.

Q. Will you explain the transactions with regard to the premises of the Protestant Episcopal City Mission Society ? A. In the early days of the city Mission Society, the corporation of Trinity Church determined to make annual appropriations towards the support of the missionaries, in preference to giving land or building churches. They accordingly, in 1832, appropriated $1,200, and afterwards $1,800 per annum. In the year 1837, the society was embarrassed, and obtained from Trinity

Church a loan of $10,000, secured by a mortgage on the two mission churches of the Holy Evangelists in Vandewater-street, and the church of Epiphany in Stanton-street. This was a business transaction and in no sense a gift to the society. In 1844, the Howard Insurance company foreclosed prior mortgages held by them on the two City Mission churches, and the premises, by an arrangement made by the vestry of Trinity Church, were transferred to the two congregations that had become independent corporations. The corporation of Trinity Church assumed the payment of $13,000 of the consideration money, the balance I believe was raised by the respective church corporations. In this arrangement, it was necessary to credit the City Mission Society with the residue of the consideration or purchase money, after satisfying prior existing incumbrances on the premises. The amount thus audited is $10,140.51, which amount increased to $13,000, was advanced, by the corporation of Trinity Church, to the two churches in equal amounts, and mortgages given by each of them to the corporation of Trinity Church for the sum of $6,500. It will thus be seen that in this instance the mortgage to Trinity Church "did tend to secure the permanent use to the Protestant Episcopal church, the building and property thus mortgaged."

Q. What have you to say with regard to the mortgage on the Vandewater-street Church? A. When the corporation of Trinity Church had made arrangements for the purchase of St. George's church in Beekman street, they received a communication from the vestry of the Church of the Holy Evangelists in Vandewater-street, in the 4th ward of the city, stating that two churches so closely together as the Holy Evangelists and St. George's in Beekman-street, having special reference to the benefit of the same class of persons—the poor who attended—would injudiciously affect each other, and so weaken both as to be a cause of lasting sorrow. They also stated that their church was in a dilapidated condition, and would require a large expenditure to repair it; and besides this, that the location for a church had become the worst in the city. This communication was referred to a special committee on St. George's church, and on their recommendation, the vestry removed the congregation of the church

of the Holy Evangelists to St. George's church in Beekman-st., and had the property transferred to that corporation. The church in Vandewater-street was then sold by its own vestry, and after paying off all prior incumbrances, the balance of $1,200 was paid over to Trinity corporation, who expended this amount, together with a much larger sum, in preparing St. George's church for their accommodation.

Q. Do you know how much money the church of St. John the Baptist has received from Trinity Church since its report was made? A. The corporation of St. John the Baptist have recently erected a fine church building in the upper part of the city. Before the church was completed, they became very much embarrassed and applied to Trinity to assume the interest on the sum of $15,000. This matter was referred to the standing committee, who reported adversely to the application. It was considered in the vestry, their report was overruled and the application granted. I will here add that on the same evening, a similar report was made on the application of the Rev. Mr. Howland; it having become absolutely necessary to protect the church building of St. John the Baptist, the vestry could not respond at that time to Mr. Howland's application, and referred it back to the same committee for further action.

Q. What explanation can you give in regard to the grant to St. Jude's church? A. In 1843, the standing committee made a report on an application of St. Jude's Church for aid, setting forth that the church had no permanent edifice or fixed location, that its present place of worship was in a part of the city surrounded by other churches affording ample accommodations for all persons in that vicinity, and recommending on these grounds, and also on the ground of the condition of the finances of the corporation, that the application be not complied with, which was adopted by the vestry.

Q. Has the amount of annual stipends been reduced? A. I think not. My impression is that the aggregate amount has been gradually increased each year during the last ten years. There are three instances to my knowledge, where they have

been entirely dispensed with. St. Thomas' Church, the salary of whose rector is said to be $5000 per annum, St. Bartholomew's and the Church of the Ascension, whose congregations have been equally liberal towards their pastor. These amounts have been transferred to other congregations who were in need of them.

Q. What effect has the disposing of large masses of property by lease, had upon the value of real estate contiguous? A. Some of the finest and most costly private dwellings in the city of New-York are built on the property of the Trustees of the Sailor's Snug Harbor, a charitable institution. It is situated in the finest and most fashionable part of the city, and the real estate in the vicinity is materially enhanced in value by the condition of this leasehold property. In another portion of the city, a large leasehold estate on Fourteenth street, extending from University Place to the Sixth Avenue, known as the Spingler lease, is covered with similar fine dwellings, and the property in the neighborhood is of the most valuable in the city. The same is also true of the leased property of Columbia College, which was derived from Trinity Church; and the church's leased property in the lower part of the city has always been well improved and fine buildings erected upon it.

Q. Is it true, as stated in the report of the committee, foot of page 18, that Col. Troop's pamphlet was an inducement to the Legislature to pass the act of 1814? A. It cannot be true, from the fact that the act was passed on the 2d of April, 1813, and the pamphlet bears date the 6th of September following.

Q. What have you to say as to the result of the policy of the vestry in granting money instead of lots? A. I desire to contrast the result of the policy adopted prior and since the year 1814. Since the year 1814, the policy of Trinity Church has been to grant to churches, institutions of charity, and learning, money instead of lots. Besides having built St. George's, Grace and St. Mary's churches, and St. John's and St. Paul's chapels, this corporation have aided in this State about 201 churches—71 in western New-York, 41 in the city of New-York and 89 in other parts of this diocese. Hobart College, at Geneva, has been made

free by her means; the General Theological Seminary and the Education and Missionary Fund aided; appropriations have been made to foreign, home and city missions of our church; an Episcopal residence has been purchased, and the Episcopal fund largely increased; annuities have been made to the families of deceased clergymen; the aged and infirm of the clergy have been assisted, and monuments have been erected to worth, valor and patriotism. These are some of the advantages obtained, and benefits derived from the proceeds of the sale of 1059 lots. It is respectfully submitted that they will compare favorably, in value and usefulness, with the former policy of the vestry, of granting a large number of lots to a few favored churches and institutions.

Q. State whether grants have been made in a spirit of partiality or partizanship?

A. I answer unqualifiedly no, on behalf of myself and associates.

Q. Has Trinity Church, in your opinion, done her utmost to make the capital of her property available for religious purposes, &c.? A. My answer is, that she has endeavored to do her best in the exercise of an honest judgment.

Q. Is there any obstacle to the collection of church mortgages if the vestry are so disposed? A. I think there is, the great obstacle of good faith.

Q. Are there other standing business committees in the vestry besides the standing committee? A. There are three standing committees in all; the standing committee proper, which is the finance committee, the committee on supplies and repairs, and the committee on the cemetery; special committees are frequently appointed as occasion may require.

By the Senate committee:

Q. Will you look at the poll list of 1854, and see how many of them are not connected with Trinity Church as vestrymen, clergymen or officers? A. All are corporators of Trinity Church, twelve of the twenty-six are in no manner connected with Trinity Church as vestrymen, clergymen or officers.

Q. Does not Col. Troup's pamphlet bear date before the law of 1814 was passed? A. Col. Troup's pamphlet bears date the 6th of September, 1813. The bill had passed both houses on the 2d of April, 1813, and became a law on the 25th of January, 1814. I beg leave to add, Col. Troup states in his pamphlet that two members of the council of revision, were pleased to express a desire that he would furnish them his reasons in support of the bill, and in compliance with this desire, his argument was made.

Q. Do you know that the churchmen in New-York have applied to have the law of 1814 repealed, in 1846, or at other times? A. I have reason to believe that from 1814 to 1846, no such application was made, a period of thirty-two years. In 1846 and 1847, the Rev. Thomas H. Taylor, Rev. Dr. Anthon, Rev. Jesse Pound, the Hon. Luther Bradish, Robert B. Minturn, Esq., Frederick S. Winston, Esq., Stewart Brown, Esq., John De Wolf, Esq., Stephen Cambreling, Esq., did unite with others, in an application to the Legislature to repeal the act of 1814.

Q. Were the church mortgages, as they are called, reported as capital in your report of 1854? A. They were reported as church mortgages on which no interest was collected. If they had not been reported as property, it might have been difficult to protect the churches for whose benefit they were taken.

Q. Why then should they not have been reported in 1856? A. They having been reported once, it would answer that purpose, and they were not asked for.

Q. You say in your report, on page 10, that you have endeavored to show the condition of the capital of Trinity Church, and have omitted to mention these mortgages. What is your explanation of this? A. I do not consider these mortgages any portion of the available capital of Trinity Church.

Q. I ask you, if they are not capital? A. I answer that that is a matter of opinion; I think not.

Q Was not one of the reasons for refusing aid to St. Matthew's church alleged to be, that her language was not respectful? A. No sir, not that I have heard of.

Q. Was not the language of the application, considered by the vestry, imperative, and spoken of as being so? A. I think it was.

Q. Is not the real estate of Trinity church worth more now than at any former period? A. I think it is.

Q. What is the character of the improvements on most of the leased property of Trinity church? A. The property in the lower part of the city is very well improved; some of the localities in the upper part are well improved, and others indifferently so. This depends very much upon the situation.

Q. Are not most of the buildings in the upper part of the city very poor and inferior? A. Many of the buildings were erected a long time ago, and do not compare favorably with such as are now built.

Q. You spoke of three churches from which stipends were taken away altogether; are not all three such as are called "low" churches? A. Stipends were given by the corporation of Trinity church, with the intention of providing for, or contributing towards the salary of the minister; and in all cases where the congregations are sufficiently wealthy to provide liberally for their rectors, the vestry of Trinity church has considered it a duty to withdraw the stipends, without reference to the party character of the congregations, or rector. The three churches named in the question, are supposed to belong to what is called the "low" church party.

Adjourned to 10 A. M., to-morrow.

TUESDAY, *Feb.* 24, 1857.

Present—The Senate committee, Messrs. Spencer Noxon, and Ramsey. Counsel as before.

This meeting of the committee was mainly devoted to making such verbal alterations in the testimony as had been deemed necessary by the counsel for Trinity Church to fully present the

meaning of the several witnesses testifying. The several alterations were assented to by the committee.

WEDNESDAY, *February* 25.

Richard H. Ogden called and sworn:

Q. Are you the clerk of the vestry of Trinity Church? A. Yes, sir.

Q. Have you made search for the poll list of voters at the vestry elections held prior to 1814? A. I have made search and cannot find any. I have no means of ascertaining whether they were preserved at as early a date as that.

By the committee:

Q. Have you made search since 1814? A. I have.

Q. Do you find any lists on file? A. None prior to 1846.

William S. De Zeng, called and sworn:

Q. As agent of Trinity Church, did you apply to the committee, in the city of New-York, for a copy of the testimony taken by them, after the testimony was closed? A. I was requested by Mr. Dunscomb, the Comptroller, to apply for a copy about the time the committee were done taking testimony ny. After the request was made, I saw both Mr. Noxon and Mr. Ramsey, and asked them for a copy of the testimony. They said there was no objection to our having a copy. I then went to the clerk of the committee and asked him if he would furnish a copy, we paying for it. He declined; said he could not do it without the authority of Mr. Spencer. I then saw Mr. Spencer, and Mr. Spencer said he could not authorise it, and thought it would be improper until the committee should make a report. I told Mr. Spencer if a copy could be made we would pay for it.

The counsel for Trinity Church here produced an affidavit of service of a subpœna to appear and testify, upon the Rev. Thos. H. Taylor, D. D., Rev. Henry Anthon, D. D., Luther Bradish, and Stewart Brown, on the 9th day of February, instant, and that they failed to appear.

Counsel for Church here closed.

The chairman of the committee presented the following letters from persons who had been subpœnaed, but had failed to attend:

NEW-YORK, *Feb.* 10, 1857.

To the Hon. MARK SPENCER, JAMES NOXON and J. H. RAMSEY,
Committee, &c., Albany.

SIRS—At 5 o'clock this evening I received your summons in the matter of Trinity Church, requiring me to attend before you on the 12th day of February instant, at 9 o'clock A.M., at the rooms of the committee in the capitol in the city of Albany, to testify and give evidence before you in relation to the matters referred to you.

While I entertain the highest respect for your committee, and for the authority by which you act, yet in the present condition of the communications between this city and Albany, the inclemency of the season, my advanced age, and the state of my health, which is not good, a compliance with the requirements of your summons would be extremely difficult, if not quite impracticable. I trust, therefore, that it may not be deemed, under the circumstances, an unreasonable indulgence, when I respectfully ask to be excused from a personal attendance before your committee; and in lieu thereof to be permitted to answer on paper any cross or explanatory interrogatories which any party interested may desire to put to me. This I shall cheerfully do, even although it may involve a greater labor than a personal examination under the circumstances would do.

Under present circumstances were I, at every inconvenience and risk, to attempt a compliance with the requirement of your summons, it would be impossible for me to attend before you in person at the time indicated by you. I venture, therefore, respectfully but confidently to hope that the indulgence I ask in this case may be accorded by the committee. In which hope I remain, sirs, with the highest respect,

Your obedient servant,

L. BRADISH.

NEW-YORK, *Feb.* 11*th*, 1857.

HON. MARK SPENCER:

Dear Sir—I received yesterday afternoon a summons to attend before the committee, of which you are the chairman, on the 12th inst., to give evidence in relation to the matter of Trinity Church. Having but just been relieved from a severe cold, I feel a great reluctance, especially at this season, and in the present state of the roads, to encounter the fatigue and exposure of a journey to Albany. I beg leave, therefore, respectfully to place my case before your committee, in the hope that they will excuse me from attending; and I do so with the less hestitation, as my evidence was given in full when the committee were in session in this city. Most respectfully yours,

H. ANTHON.

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804 BROADWAY, NEW-YORK, }
February 16, 1857. }

HON. MARK SPENCER, *Chairman, &c.*:

My Dear Sir—Absence from home, and a pressure of unavoidable engagements, have prevented me from making an earlier acknowledgment of the receipt of a summons from the special committee of the Senate, in the matter of Trinity Church, requiring me to attend and give evidence before the committee on the 12th inst. With the most perfect respect for the committee, and with an earnest desire to meet all their requirements, it was yet entirely out of my power to attend at Albany as a witness at the time specified.

While I thus freely and sincerely express my respect for your committee, and my regret at not being permitted to aid them as I best could in their important labors, yet you must permit me to say, Mr. Chairman, that none of this respect, and nothing of this regret is intended by me, to extend to any hired agents of Trinity, at whose instance, as I take it, the summons now before me was issued.

During the meetings of your committee in this city every opportunity was afforded to the corporation of Trinity Church, either to summon witnesses or to propose cross-interrogatories to

every witness before your committee; and if in their supercilliousness or reckless negligence they did not avail themselves of their privilege, the consequences must rest upon themselves. The vexatious course they are now pursuing, of attempting to drag gentlemen from their business and their homes at this inclement season of the year, from whom they well know that they cannot obtain one word of evidence in any way useful to Trinity Church, has no other earthly object than to *gain time*, and thus to *defeat by postponing* one of the most salutary measures of reform that has ever claimed the attention of the Legislature of the State.

With my renewed assurance of the most perfect respect for your committee, permit me to subscribe myself, Mr. Chairman,

Your friend and obedient servant,

Very truly,

THOMAS HOUSE TAYLOR,

Rector of Grace Church in the city of New-York.

The following letter was presented by the counsel for Trinity corporation, and ordered filed with those previously received.

"New-York, *February* 24, 1857.

Wm. E. Dunscomb, Esq.

Dear Sir.—I have received your note of yesterday, asking me again to go up to Albany. For myself I cannot see its importance; and with reference to my answer that I 'have been on a committee to examine the annual report, and examination of the accounts of the comptroller; they have access to all the books referred to in the annual report, and such only.' Our committee at this examination called on Mr. Rogers, the clerk, for the books and vouchers, who furnished the same and no others, because no others were called for by the committee; and that is what I mean by 'and such only.' And by going to Albany I could give no other explanation, and to my mind no other one is required. Did I suppose that I could be of any use to the committee by going up to Albany, I would try to go up, yet, as I wrote Mr. Ogden, it would be at not a little personal inconvenience; and, therefore, hope that you will excuse me, and oblige

Very truly yours,

CYRUS CURTISS."

Adjourned to 10 A. M., Saturday morning.

ARGUMENTS

OF

THE COUNSEL OF TRINITY CHURCH,

BEFORE THE

SENATE COMMITTEE.

C. VAN BENTHUYSEN, PRINTER, ALBANY,
No. 407 Broadway.
1857.

After the testimony was closed, Mr. Gouverneur M. Ogden, one of the vestry, addressed the committee of the Senate, on the affairs of Trinity Church, as follows:

Mr. Chairman: I appear before the committee as one of the vestry of Trinity Church, to speak to the questions of fact that are involved in this controversy as touching the character and good faith of myself and my associates.

But before commencing this argument, I beg leave to protest, most respectfully, in the name of the corporation which I represent, against the authority of the Senate or of this committee to entertain the investigation of which these proceedings form a part, on the ground that no information expected to be derived from it can be necessary to guide the discretion of the Legislature in any matter within its powers; for the act of 1814, to which these proceedings are supposed to have reference, forms a part of the charter of Trinity Church and cannot be altered, modified or repealed without its consent; and these proceedings are not instituted at the instance of any party who has an interest in the questions involved; and on the ground also that investigations of this kind are productive of great injury to ecclesiastical corporations by involving them in great expense and engaging them in litigations that properly belong to the courts, and which are here conducted without the restraints and without the protection afforded by the rules of legal investigation.

I say this, gentlemen, without intending disrespect to the committee and merely lest perchance the corporation should be involved in any admission through my silence.

There are important questions involved, and if I speak freely and warmly I shall at all events endeavor to say nothing not called for by the performance of my duty, and nothing offensive to any which shall not be necessary to exhibit the motives which have actuated, and the credit which is due to the parties whose names are involved in this controversy as witnesses or actors.

This is not a new thing, and it is necessary in order to explain its present position to refer to a few historical facts. The original charter of this corporation was granted in the year 1697, creating a single church corporation with one rector, one body of church wardens and vestrymen, and one congregation. The church has always contended, from the time at which any question could arise, that under this charter no persons were corporators except members of the congregations of Trinity Church. Then follows the law of 1784, now repealed, which, although it made some alteration in the powers of the corporation, did not add to or diminish the qualifications of corporators. Next the law of 1784, as the church has always contended, did not change the rights of corporators so as to include any others than members of the congregations of Trinity Church.

These are principles, stated very briefly upon which the vestry of Trinity Church have always acted.

In 1813, Trinity Church made an application to the Legislature upon which the act entitled "an act to alter the name of the corporation of Trinity Church in New-York, and for other purposes" was passed, on the 24th of Januery 1814, by which it was declared that only members of the congregation of Trinity Church, with certain other qualifications in the second section of that act specified, should be entitled to vote at the annual elections for church wardens and vestrymen of the said corporation.

Now, certainly, there were persons who thought that the construction which I have stated, the vestry put upon the original charter and act of 1784, was not sound. A class of persons who were interested in maintaining a different construction came into existence when the first church corporation in the city of New-York, independent of Trinity, was created. St. Mark's Church, as would appear from the testimony of Mr. Bradish, page 98 of the first report of this committee, existed as early as 1798; and there were nine such churches in 1814 as appears from the testimony of Dr. Berrian. Yet the practical construction was such, that down to 1814 no persons who did not belong to the congregations of Trinity Church were ever permitted to vote at the vestry elections. This is amply proved by the testimony.

The statements on the other side on this point are very loose. The only reference to it that occurs, is in the testimony of Mr. Bradish, who says on page 95, that the great body of episcopalians

in the city of New-York were not only deprived by the act of 1814 of valuable franchises previously granted to and *enjoyed* by them, but virtually divested of their right of property.

On the other hand Mr. Verplanck and Dr. Berrian, who were members of this corporation in 1811, testify that at an election held in 1812, the first attempt was made by members of other corporations to vote at the Easter elections of Trinity Church, on the occasion of some great excitement then prevailing, and they also say that they were intimate with other gentlemen, members of the corporation at that time, older than themselves, who are now deceased, and that they never heard of such parties ever having been admitted to vote.

We have, moreover, produced in evidence the resolution of the vestry, passed at about the time of this occurrence, in which after reciting that the vestry had been informed that a claim to vote at the elections of Trinity Church had been set up by persons who were members of other church corporations, it was declared in substance, that no one should be admitted to vote unless they were members of the congregations of Trinity Church.

Other cotemporaneous documents establish the same position. In the application of the vestry to the Legislature for the passage of the law of 1814, it is stated that no members of other church corporations have a right to vote at their elections, or regulate the affairs of Trinity Church; that "nevertheless a few individuals belonging to such separate corporations, have recently pretended, to claim that right, and at he last annual election of church wardens and vestrymen of Trinity Church, held in the month of March, 1812, two or three persons, being members of incorporated churches, separate and distinct from your petitioners, presented themselves as voters, but their votes, under an ordinance previously passed by your petitioners, were rejected; and no measures have been yet taken to enforce or establish the right so claimed."

In Col. Troup's pamphlet, which has been quoted by Mr. Bradish, it is stated that no members of other congregations claimed, prior to 1812, and that in March of that year, several persons offered themselves as voters, being members of other corporations, one of whom instituted a suit, and the same person again offered to vote in the succeeding April. (See page 12 of that pamphlet.) There is no evidence as to what became of this suit. It was probably dropped, or a decision upon it would be found.

These cotemporaneous documents have been frequently referred to in controversies before the Legislature, respecting applications for the repeal of the act of 1814, made in 1846-47, to which as it appears in the testimony, the principal witnesses against Trinity Church in this matter were parties. This statement is confidently submitted as conclusive proof that down to the year 1814 no persons were ever admitted to vote at the elections of Trinity Church except they were members of the congregations of its churches; and there can be no controversy about the truth of the position, that since 1814 no such persons have ever been admitted or allowed to exercise that right.

This appears abundantly from the testimony, both of Dr. Berrian and Mr. Verplanck.

In 1813, Trinity Church made the application to the Legislature which resulted in the passage of the act of the following year. They asked that the Legislature would obviate and settle the questions that might arise in consequence of incorporating other Episcopal congregations in the city, and they asked it that strife and litigation might be prevented. In 1814 the law was passed, declaring that none but members of the congregations of Trinity Church were corporators. This state of things remained undisturbed until 1846. Then and in 1847, applications were made for the repeal of the last mentioned law; in 1846 in the Senate and in 1847 in the Assembly. In both cases the applications were unsuccessful. In the last of these, the matter was argued by counsel of high standing on both sides, before the judiciary committee of the House, who unanimously decided against the repeal, and in a report of singular ability, recommended that the prayer of the petitioners ought not to be granted. This recommendation was unanimously adopted by the Assembly.

Thirty-three years had then elapsed since the passage of the law. Now ten years more have passed. The object of the act was accomplished, and during all that time peace and quietness prevailed in the episcopal church in New-York, except when the agitation of this question of repeal stirred the waters of controversy. Now the contest is renewed, but not as before. Then the parties seeking the passage of the measure now sought, came forward openly, with an avowed object. Now no one appears as interested in any stage of these proceedings. There is no memorial. There is no proof of notice of an application for a repeal as the statute requires. Every step is the act of the Senate.

Let me trace these proceedings. It is necessary to exhibit the actors, their motives and objects, and necessary to show the credit that is due to the testimony. The commencement of this proceeding was the original resolutions of the Senate, passed on the 15th of April, 1855. There was no application or representation as the foundation of these resolutions. They were passed in the hurry of business, at the close of the session. I will notice shortly some of the matters asked for by them. Who in Albany could have known that Trinity Church had never built a free church? Who could have known that a return of the churches built within the five years next before the passage of the resolutions would show that Trinity chapel was built within that time at great cost? Who in Albany could have known that to disclose what feeble churches had been aided in the same five years would, probably, exhibit a comparatively small amount expended for the benefit of such churches while Trinity chapel was building? Or who in that city could have told that the appropriations to institutions of charity, benevolence and learning, made within the *three* years next preceding the passage of the resolutions, would just escape the important and meritorious gift in favor of Hobart Free College at Geneva, with the condition that it should be called by that name and be forever free?

These features show a knowledge and design of interested parties to select for the prejudice of Trinity Church the time within which and the objects to which, the return would show the least, and they are the obvious result of a laborious collection in New-York of rumors, and suspicions, and the complaints of disappointed applicants.

Again, all the gifts required to be returned are those made to churches in the city of New-York. Why? Because the persons who are interested in and have been applicants for the repeal of the act of 1814 have always contended, and must always contend, that the property of Trinity Church is held in trust, for the inhabitants of the city of New-York in communion of the Protestant Episcopal Church. This points out the source of the resolutions. The report of the Church stated its gifts made at other times and to Churches and to institutions situated in the country in various parts of the State. *Now*, the witnesses examined in New-York, state that they have no objections to gifts to the country; yet hitherto they have always declared such objections, and if there be such a trust as they contend for, it necessarily follows that the

These cotemporaneous documents have been frequently referred to in controversies before the Legislature, respecting applications for the repeal of the act of 1814, made in 1846-47, to which as it appears in the testimony, the principal witnesses against Trinity Church in this matter were parties. This statement is confidently submitted as conclusive proof that down to the year 1814 no persons were ever admitted to vote at the elections of Trinity Church except they were members of the congregations of its churches; and there can be no controversy about the truth of the position, that since 1814 no such persons have ever been admitted or allowed to exercise that right.

This appears abundantly from the testimony, both of Dr. Berrian and Mr. Verplanck.

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gifts hitherto made to the country were all illegal, and if they could be admitted as corporators, under the construction which they advocate, such gifts to the country could never hereafter be made, and the much complained of mortgages, wherever they cover churches out of the city of New-York, must be foreclosed.

From these considerations it is apparent that the resolutions of the Senate—the first step in these proceedings—emanated from interested parties in New-York.

After the report of the Church was made to the Senate, it was, within a few minutes of the close of the session of 1856, without a complaint or memorial from any one, referred to this committee, with authority "to examine into the matters connected therewith during the recess."

The committee came to New-York. It must be acknowledged that there were circumstances which misled the committee. The witnesses who presented themselves before them were gentlemen of great respectability in position; and our own course may have tended further to mislead them. We thought they had no legal power, and being aware of this, they had the impression, doubtless, that we would not appear before them under any circumstances. In this, however, they were in error. For had the vestry understood the nature of the charges which it was intended to bring against them, they would have adopted the course they have now pursued. They relied upon a supposed state of things which it now appears did not exist. They supposed, and were authorized to suppose, that the investigation in contemplation was undertaken at the instance of the Senate alone, and they judged that the most respectful and proper course was for them to leave the committee to their own judgment, without interference or suggestion from the vestry, and to hold themselves in readiness, as they did, to furnish any information that might be desired by the committee. They supposed, also, that the committee would confine themselves to the matters of the report of the church, and they were confident that the statements in that report could not be materially controverted. There was, in truth, no contradiction of that report in any material point, excepting as to the amount stated in the report to have been given for the benefit of St. George's Church in Beekman-street; and the report in this respect has been vindicated by the testimony of Dr. Berrian. They relied, also, upon the committee that they would take none but legal testimony. But in all these respects, as the

sequel shows, the vestry acted in error. The investigation was not at the instance of the Senate alone. The evidence was not regular, but was made up of hear-say testimony of the grossest kind, of rumors and suspicions, and of opinions of witnesses upon matters as to which their opinions were entirely inadmissible; and the committee went out of the report, and under the general authority comprehended in the words, "to examine into the matters connected therewith"—words calculated to comprehend everything and give notice of nothing—charges of partiality, of the exercise of a control over the opinions of clergy and laity, through grants, of mismanagement and concealment in the conduct of the internal affairs of the corporation, and a want of vitality and interest in the ministrations of the Church, were entertained. It is manifest the Church had no notice of such charges and could not anticipate them.

Now, for the first time, appear the real actors in all this. They are the Rev. Thomas House Taylor, Rev. Henry Anthon, Rev. Jesse Pound, Luther Bradish, Robert B. Minturn, Frederick S. Winston, Stewart Brown, John D. Wolf, and Stephen Cambreling. These are now the most important witnesses. In 1846–47 they were open applicants for the repeal of the law, the repeal of which is now sought. Then they had counsel. Now counsel was equally necessary, for it was essential that the legal positions contended for should be presented to the committee. There could be no avowed counsel, because there was no avowed party. So an expedient must be fallen upon to remedy this defect. I can well imagine the conference at which the method of proceeding was resolved upon, at which it became apparent that the legal positions must be presented in some form, and if not by one appearing as counsel then by a witness; and I can imagine Mr. Cambreling as objecting to taking the part, both because he is too good a lawyer and because he was unwilling to appear in that position; and that Mr. Bradish volunteered to act in that capacity the rather because it was the post of pre-eminence. The result is that controverted positions, disproved over and over again, passed upon after careful arguments by counsel far abler than Mr. Bradish, before the committee of the house of Assembly in 1847, and overruled by their decision then, are expected to derive new efficacy supported by an oath, when presented at this day as the ground for the decision of the Senate.

By these witnesses, injurious charges were brought out, and some rumors reaching us that led us to suppose that it might be

important that we should see the testimony thus elicited. We applied to the chairman of this committee (I am speaking from the evidence) for a copy of the testimony, offering to pay the expense. It was refused, and we were told that it could not be allowed until after the testimony had been reported to the Senate. Then came the report to the Senate, and until after that had been presented, the vestry knew nothing of the testimony, nor of the grave charges that were supported by it.

I have gone through this statement, Mr. Chairman, in order to show the concealment used by the parties instigating this movement, which I might almost call fraudulent, which has characterized these whole proceedings. In fairness, they ought to have been commenced by a memorial stating the charges made and the action sought; instead of that, the purpose of the first application to the Senate was concealed ; the after reference was so made as entirely to cover its real object, and the investigation was so conducted and its results were so kept from us as to give, without any power on our part to prevent it, the advantage to the real but unavowed parties, of possessing the public mind completely with an opinion most prejudicial to the character and management of the vestry of the church ; by means of which it cannot be doubted it was hoped to procure the immediate passage of an act repealing the law of 1814.

The honorable Senator, [Mr. Noxon,] a member of this committee, arrested this by procuring us an opportunity to be heard although after the report of this committee had been made. We thank him. We have availed ourselves of this opportunity for the justification of our reputations, and because we would not see the institution of which we are trustees deprived of its rights through unfounded accusations against its management. But I ask the committee to enter upon the consideration of the testimony, bearing in mind that the principal witnesses are the real actors, are the getters-up of the testimony, and of the whole case by means of which they hope to accomplish the object they have in view. That they have testified directly for themselves, and have attempted by their own oaths to substantiate allegations through which they desire to succeed.

The first point of the evidence to which I would call your attention, is as to the assessed value of the real estate of Trinity Church. I understood the committee to intimate that they were satisfied that the reasons given by the vestry for the return of the

assessed valuations, as stated in their supplemental report, were sufficient. I will only then say that as the resolutions of the Senate required the vestry to report the "estimated value of each lot," and as they have reported the estimated value, according to the official estimate of sworn officers, and as, moreover, a new estimate of their own could not be made without differences of opinion of members of the vestry, of such a character as to make such estimate entirely unreliable; and as further, the vestry expressly stated that the estimate they returned was that made by sworn assessors of the city, for the purposes of taxation, they are not justly chargeable either with a misrepresentation of the value of their property, or with a non-compliance, in this respect, with the requisitions of the Senate. If, however, it is deemed by this committee material to state the real value of the land of Trinity Church, whilst the vestry do not object to its true valuation being shown, they desire to see no exaggeration of the value. I must therefore call the attention of the committee to the testimony of Mr. Skidmore in connection with this subject. He points out clearly an error into which the committee have fallen. I may thus state it: The committee have set down the fee as really worth more than five times that amount, which would appear to be its value according to the assessor's estimates. Now as the interest of the tenants is the present interest, and they have until the termination of their leases the possession and enjoyment of the land, if you make the fee worth more, you should make the interest of those tenants worth more in the same proportion. Mr. Skidmore has stated such a proportion, and has shown the error of the committee to amount to the sum of $1,468,105. It is true that to get at the true value of the interest of the tenants based upon the new valuations presented by the committee, a more complicated and accurate process must be gone through with, but the result would not greatly vary, and my object is rather to point out that the committee have made an error to a very large amount, than accurately to state that amount.

But we are charged with a designed omission of large items of our property. These are Church mortgages and the interest of the corporation in St. John's Park.

First Church mortgages. I call the attention of the committee to the important fact which they seem to have overlooked, that mortgages of any kind were not called for by the resolutions of the Senate. The vestry, however, in their report at page 7, made a statement of their productive property, intending to give, and

expressly stating they gave the whole *productive* estate of Trinity Church. This was done, only—volunteered as it was—as an introduction to the subsequent passages in their report, which were intended to exhibit the revenue of the Church, as derived from the productive estate before mentioned, in order that the expenditures which must annually occur, might be contrasted with that revenue, showing a necessary deficiency of upwards of $27,000. Now, the Church mortgages were not included in that statement, because they were not productive. The object and purpose of such mortgages, is distinctly stated in the supplemental report of the Church, in which it is said "they are in reality only held to secure to the permanent use of the Protestant Episcopal Church in the United States, the Church buildings and property, upon the security of which this body have loaned money to other Church corporations for their aid and support."

The report proceeds with a statement which it has been supposed is in conflict with the facts. It says, "The vestry believe that no measures have been taken to foreclose any of such mortgages or to collect interest upon them, although the interest has been remitted upon one or more of such mortgages, when the lien was about expiring by lapse of time, upon the agreement being made to revive such lien."

It has been supposed that other statements contained in the report of the vestry are in conflict with the last above quoted paragraph, and that the mortgages executed respectively by the Protestant Episcopal City Mission Society and the Vandewater-street Church, have in fact been foreclosed by Trinty Church. Now the testimony of Mr. Livingston proves that the report by the Church is in this respect entirely correct. He shows the following to be the facts. Two churches belonging to the last mentioned society were each subject to a first mortgage in favor of the Howard Insurance Company, and to a second mortgage in favor of Trinity Church. The Howard Insurance Company foreclosed their mortgage, not Trinity Church, those held by her. This the vestry had nothing to do with, and could not prevent. But they did prevent the sacrifice of the Church property, by coming in at the sale and purchasing the property for the Churches interested. To effect this purpose it was necessary to bid $10,140.51 more than the amount necessary to pay the first mortgages to the Howard Insurance Company, and the expenses. This belonged to Trinity Church, and to enable the Churches interested to take the title, it was necessary, the money not being paid, that Trinity

Church should give a receipt for it, as if it had been paid. She did so, and aided them further by paying towards the purchase money in cash $2,859.49 ; and then took mortgages, $6.500 on each Church, for $13,000, composed of the sum of $10,140.51, credited on the mortgages of the Mission Society, and $2,859.49 now paid in cash. Here then the Church mortgages were used for and served the purpose of protecting the Church property covered by them. If these mortgages had not existed, more than $10,000 would have been lost to the Churches, which through these instruments was saved.

In reference to the Vandewater-street church, Mr. Livingston also states that after Trinity Church had purchased St. George's Church in Beekman-street, the church of the Holy Evangelists sold, of their own accord, their church building in Vandewater-street, and after paying out of the purchase money the prior encumbrances, paid over the balance of $1200 to Trinity Church in part payment of her subsequent mortgage; and this and a much larger sum besides was expended by Trinity Church for the benefit of the Church of the Holy Evangelist after it had removed to St. George's in Beekman-street.

Thus, in both instances, (of the Protestant Episcopal Mission Society and the Vandewater-street church,) the church mortgages were not foreclosed by Trinity Church, but yet served their purpose of saving in part at least the sums given by Trinity Church, which were immediately devoted by her again to the benefit of the mortgaged churches.

Reference has been made to the case of St. Peter's Church as connected with the subject of church mortgages, and an inference unfavorable to Trinity Church has been drawn from the statement of Mr. Beach. This transaction has been explained by Mr. Moore, a witness. Here, as he says, Trinity Church held a *first* mortgage, and refused on the application of certain creditors of St. Peter's to waive the priority of lien in favor of such creditors, except so far as she had already done by waiving her lien for interest as against the whole principal and interest, (not exceeding one year's interest,) due or to grow due on a subsequent mortgage; stating as a reason that the first mortgage held by Trinity Church was really held for the benefit of St. Peter's, and that her congregation ought, by their individual exertions, to relieve the church from debt. There was no such cold refusal here

as would seem to be implied by the latter clause of Mr. Beach's testimony. The object of the church was only to encourage and excite individual effort for the relief of St. Peter's from her debt, and to take care that the original purpose of this church mortgage should be answered by securing to the use of the Protestant Episcopal Church. the church buildings of St. Peter's, so far at least, as to the extent of the principal of the church mortgage.

It is shown by the testimony that the interest on church mortgages has been remitted when the lien of the mortgages had expired, or was about expiring by lapse of time, in two cases, that of St. Thomas' and Zion Church. In this respect, therefore, the report is proved to be true.

It has also been proved by the testimony of several witnesses that the vestry do not regard these mortgages as productive property, and no interest is ever collected upon them; again conclusively establishing the statement made in the report of the Church. The same witnesses—and I do not wish to consume the time of the committee by referring to the testimony with which they are familiar—show that these mortgages are really held by Trinity Church for the benefit of the churches upon which they are a lien and for no other purpose; and every case of such mortgages which has been mentioned confirms their statement by exhibiting that they really did operate in those cases to the advantage of the churches.

The purpose of requiring these mortgages is therefore sufficiently shown, and as to their effect upon the interest of the churches concerned, and indeed upon their independence, about which so much has been said, I may refer to the testimony of Bishop Potter, who says in regard to them: "These loans were absolute in reality. Nobody ever supposed that the interest or the principal would be called for by Trinity Church. They never have been in a single instance, although the cases have been very numerous, in which such mortgages have been given. When I consecrate a church, I always wish to know whether there be any debt. I never regard a mortgage given to Trinity Church in the light of a debt. I have never perceived, and do not believe that such mortgages in any way affect the independence of ministers and laymen. It is very common indeed, to see the ministers and laymen of a Church subject to a mortgage, voting against measures favored by Trinity Church. In conventions I

doubt whether any one remembers or reflects whether mortgages exist in particular quarters or not. The effect of these mortgages has, I doubt not, been important in preventing the property of Churches from being sold and alienated from their sacred use; and this I have always understood was the object of Trinity Church in requiring them." And Bishop De Lancey states that the effect of taking such mortgages upon the interest and condition of Churches mortgaged, has been "favorable, by preventing Church edifices from being alienated from the holy objects for which they were erected, by encouraging individual members to sustain the Church thus secured to its object, and by being an obstacle, as a first mortgage against further mortgages of the Church for debt. I cannot say that I have seen any moral, spiritual, ecclesiastical or pecuniary evils result from such mortgages in my diocese."

It must, therefore, be manifest that these mortgages have been required to serve a good object, and that such object has been attained.

Now, I submit, that there is no other legal method possible to to be devised by which this object could be attained. Experience shows that the power is in safe hands, and if it be said that there is no legal obligation to confine these mortgages to their original purpose, there is yet a great public responsibility that must always be sufficient.

The next head of omission for which Trinity Church has been blamed, is of her interest in St. John's Park.* The deed under which this interest was derived is dated on the 22d of May, 1827. The main object of this deed was to make St. John's Park an open square for the use of the owners of adjoining lots. The provision looking to its being appropriated to any other purpose, had relation to a very remote contingency,—so remote and improbable, as that it could only have been suggested by the skill of an experienced conveyancer. When, therefore, the report says, and witnesses testify, that after nearly thirty years "it was not remembered" that the contingent interest of Trinity Church existed, they are to be believed. Neither can it be justly said that the value of this interest is $400,000. Mr. Skidmore, after verifying the statements of the supplemental report on this subject, testifes that the "whole number of lots interested

*This matter is stated in the supplemental report of the Church, page 65 of the testimony, so clearly as to be incapable of misapprehension.

in this park is I think sixty-four, of which Trinity Church owns seven, being about one-ninth of the whole. It was supposed on the part of some of the property owners, that they would be able to get from the United States some $600,000 or $700,000 for the property, but I do not know whether they actually had an offer for it or not; but even if sold at that price the pro-rata of Trinity Church would have been about $70,000. St. John's chapel, Parsonage and Sunday School stand on these seven lots." It is, therefore, evident that the value of the interest of Trinity Church, if stated at all cannot be more than between $70,000 and $80,000; the utmost price talked of being $700,000, and the share of the Church being but one-ninth. The object of naming $100,000 is clearly stated, both in the supplemental report and in the testimony of General Dix, to have been to fix a sum as damages which would be sustained, through the injury to St. John's Chapel, and not as a valuation of the interest of Trinity Church, or with any expectation that any such sum could ever be realized.

It is therefore submitted that the truth of the supplemental report on this subject has been perfectly verified by the testimony.

The statement in the report of the Vestry relative to the amount expended for St. George's Church, in Beekman-street, has been questioned by Dr. Tyng, examined in New-York. He says, "that to the best of his knowledge and belief Trinity Church never paid but $25,000 for St. George's Ckurch." Dr. Berrian, however, vindicates the report in his clear testimony on this subject, in which he tells you that Trinity Church not only paid $25,000 in money, but released conditions, the releasing which was of great pecuniary value to St. George's Church, and also relieved the last named Church from obligations to pew and vault owners, which release and relief were expressly valued between the parties at $25,000, and Trinity Church was then allowed credit to that amount on account of the price, $50,000, asked by St. George's Church for its church building in Beekman-street.

Leaving now this matter of statement of property, I call the attention of the Committee to the frame work of the charges against Trinity Church, as contained in the testimony of Mr. Bradish. Promises and representations are stated to have been made by the Vestry of Trinity Church, as inducements for the passage by the Legislature, of the law of 1814. This statement is made the foundation for every other charge. It is alleged that the Vestry have not kept their promises and representations, and

that certain consequences, first affecting her internal condition, and second affecting other Churches, have followed from this breach. These consequences constitute the charges against the corparation; and it is argued that as the promises are broken on the part of the Church, the act of 1814, the promise of the State, is no longer binding and ought to be repealed.

Now, as to these alleged promises or representations, Dr. Anthon says that to calm the fears of the Legislature, the Vestry "promised that their funds should be applied to the building of Churches, from time to time, as the increase of population demanded; the control of such churches to be relinquished to independent vestries, etc., suitable endowments to be made;" and Mr. Bradish says, quoting from the pamphlet of Col. Troup, "judging from the past, it is morally certain that the future increase of the population of the city will strongly recommend to the corporation of Trinity Church the policy of dividing its corporators and setting them off in separate Churches, with suitable endowments; and to enable the Vestry to do this in a mode free from all legal doubts, and with the assent of a majority of the corporators to be set off, is a fifth object of the bill." "Again," quoting from the same pamphlet, "the bill when passed into a law would have the happy consequence of enabling the Vestry of Trinity Church from time to time as society shall advance, to separate Churches with the consent of their congregations, and to endow them with competent estates. No power can be more congenial than this to the spirit of our republican systems."

It is to be observed in relation to this pretence, first, that there was no promise here of Trinity Church by which she bound herself to any particular course of action; that in the pamphlet quoted, Col. Troop gave only his individual opinion, without having, or pretending to have any authority from the Church, or to speak in its name. He wrote this pamphlet, as he expressly states, at the request of the council of revision, made to him personally in order to elicit his individual opinion.

Second: It is not pretended that there was any misrepresentation of fact or fraud, and the language of Col. Troup clearly shows that at most, he stated a policy which he thought *would probably* be carried out. Now, if any reliance had been placed upon expectations which are now supposed to have been excited by what Col. Troup wrote, why was not a proviso inserted in the act to cover the case? And even supposing that Col. Troup, acting as

agent or counsel for the corporation, had stated previous to the passage of the act what was the course of the management of their affars, which Trinity Church intended to pursue after the passage of the act, it is a new doctrine, I submit, to contend that this can be grafted, with all the force of a proviso, upon a law passed after such representations were made.

Third—But there is not a word of truth in the position that any promises were made.

One object of the law of 1814 was to enable Trinity Church to separate any of its chapels, and to endow them with competent estates. I read now from the fifth section of that law : " And be it further enacted, that when and as often *as it shall seem expedient* to the said Rector, Church wardens and vestrymen of Trinity Church in the city of New-York, to divide the congregation or corporators belonging to the said corporation, it *shall be lawful* for them so to do, by setting apart as a separate Church, any of the Churches or chapels that may belong to, and form a part of the said corporation; provided the same be done with the assent of a majority of the persons entitled to vote as aforesaid, who shall belong to such Church or chapel intended to be set apart," etc.

Now, this section manifestly gives a *power* to the vestry to do what the section authorizes, and leaves it entirely to their discretion to exercise it or not.

Look then, at the passages quoted from Col. Troup's pamphlet in connection with the provisions of the section just quoted. He says, " it is morally certain that the future increase of the population of the city will strongly *recommend* to the corporation of Trinity Church, the policy of dividing its corporation," etc.; and " to *enable* the vestry to do this in a mode free from all legal doubts, etc., is a fifth object of the bill." That is to say, the power ought to be given, and it is his opinion that it will be exercised. And in the same way, in the other paragraph quoted by Mr Bradish, Col. Troup says that " the bill when passed into a law would have the happy consequence of *enabling* the vestry of Trinity Church, from time to time, as society shall advance, to *separate* Churches with the consent of their congregations, and to endow them with competent estates. No *power* can be more congenial than this to the spirit of our republican system."

It is manifest, therefore, that Col. Troup was only urging that the power ought to be given in order that the Church might, if it saw fit, exercise it, and he made no promise in any form, that they would exercise it. Nor does it appear that any congregation of Trinity Church has applied to be set off.

The paragraphs which I have quoted contain all the representations or promises, which are alleged to have been or were made by Trinity Church or any one for it. Is there any thing here, even holding out the expectation in any form, that Trinity Church would endow with land, Churches not forming part of her own corporation? There is not a word that can bear any such construction, and yet Dr. Anthon tells us, in the paragraph before quoted from his testimony, "That the vestry promised that their funds should be applied to the *building* of Churches from time to time, as the increase of population demanded; the control of such Churches to be relinquished to independent vestries, etc., suitable endowments to be made"; and Mr. Bradish says: "that a return to the policy and practice of endowments in landed estates, as contemplated in the act of 1814, and was promised as an inducement to the passage of that act, can alone give a real and healthy development of Church growth and parochial independence."

These statements are in direct conflict with the fact, for Col. Troup expressed no opinion, and much less made any promise, as to the probable or intended course of the vestry in relation to the endowment of churches not her own; and this is an instance of the recklessness with which these witnesses have given their testimony. And it is the more important to point out their inaccuracies in this respect, as the propositions which they have thus sworn to, make the whole flimsey basis upon which the case (theirs if any body's) rests.

Again, to point out another instance showing the entire unreliability of the testimony of Mr. Bradish, I call the attention of the committee to the fact that the act of 1814 had passed both houses on the 2d of April 1813, [see p. 95 of Mr. Bradish's testimony in the first report of the committee] and the pamphlet of Col. Troup is dated on the 6th of September, 1813, more than six months after the act had passed both houses. Yet Mr. Bradish says [p. 101 of first report of this committee,] that as an inducement to the passage of the act of 1814 it was urged "as morally certain that the future increase of the population of the

city would strongly recommend to the corporation of Trinity Church the policy of dividing its corporators, and setting them off in separate churches with suitable endowments, and to enable the vestry to do this in a mode, free from all legal doubts, was an object of the bill. *The bill was drawn and passed accordingly.*" Yet the truth is that the bill was drawn and passed both houses six months before Col. Troup said any thing respecting it in the paragraph alluded to, and from which Mr. Bradish derives his authority.

Mr. Bradish says "that the action of the vestry previous and subsequent to the passage of the act of 1814 gives *peculiar significance* to those paragraphs in Col. Troup's pamphlet." Under this beginning it is sought to be made out that the church has not given her lands to other churches, and from the policy of giving money certain consequences have flowed. These consequences constitute the charges against the vestry; and these divide themselves into such as affect the church at large, and such as affect the internal concerns of Trinity Church. Of those that relate to the church at large I know propose to speak.

As to gifts by money grants, secured by mortgage or otherwise, or by stipends, Mr. Bradish says that, "it is believed that they interfere with"—Dr. Anthon, "that they seriously impair"—and Dr. Taylor that "they are fatal to the independence of the parishes thus aided." Dr. Taylor, moreover, speaks of the "overwhelming influence" exerted by these means; and to support his assertion he retails a hear say story of what a clergyman told him, that a churchwarden had told him, that the comptroller of Trinity Church had told the churchwarden, without name or date! This is the testimony against us.

Does the Church really exercise any such influence, or control the opinions of clergymen or laymen of Churches which she aids, or has aided in any form? I refer to the testimony for a complete answer to this question.

Mr. Skidmore, who has been a member of the vestry for ten years. and of the standing commitee for six to eight years, when asked if the vestry had in any way endeavored to control the free opinions or acts of vestries or ministers, who had received or were seeking aid for their Churches, answered "not to his knowledge." Dr. Haight when asked as to the effect of gifts of money in any of the forms mentioned, upon the pecuniary independence or free-

dom of speech or action of the clergymen and vestries of Churches aided, answered as follows:

"I do not think that the aid bestowed in any of the forms mentioned has had the slightest effect upon the independence of speech, or freedom of action of the clergymen and laity of the parishes aided. I have had some opportunity of noticing the course pursued by clergy and laity in our diocesan conventions, having been for twenty years assistant secretary and secretary of the same, during the greater part of which time there prevailed great diversities of opinion. In looking over the list of parishes whose Churches have been mortgaged to Trinity Church, I find eight, the clergy and lay delegates of which, for a series of years, in all leading questions, spoke and voted differently from the Rector and the lay delegates of Trinity. Two of these are mortgaged for $25,000 each, two for $20,000, one for $5,000. The other three for smaller sums. So also in regard to the Churches which have received grants of land and money, or annual stipends, I find nearly thirty which have taken the same independent course in convention, without regard to the course of Trinity. My opinion of the clergy and laity of the diocese of New-York is such that I do not think it would be practicable for any corporation to buy their opinions or their votes. Of the Churches last referred to, six received gifts of land and money, twelve gifts of money alone, and two received gifts of land and a stipend; three received gifts of land alone, six received stipends alone. My knowledge of the votes of these clergy and lay delegates of the several Parishes, was derived from the fact, that for a long series of years it became my duty at every convention to call the ayes and noes on very many questions."

Bishop Potter also speaks to the same point, when asked a similar question, and says:

"I do not see why the assistance spoken of in the question, should be injurious to the parishes in the respect mentioned in the question, nor do I believe that it has been; but on the contrary beneficial. It has encouraged parishes to exertion, in many instances, when otherwise they would have been unable to maintain themselves. The feeling often has been, I think, that the parishes receiving such aid have laid themselves under a special obligation to exert themselves. If it was an absolute grant with a mortgage, it did not differ essentially from any other gift,

except the obligation just spoken of was incurred ; if it was an annual stipend it was like the stipends granted by the Missionary committee of the diocese, and those annual stipends have been provided for by the collective wisdom of the Church in the diocese, as a part of her organized system, which must imply an opinion of the whole Church in the diocese that that mode of rendering assistance is a useful mode. I have known many cases where a Church being able to establish itself in a given community, or being able to maintain itself, seemed to depend upon the assistance it received from Trinity Church."

I can refer also, in connection with this point to the strong and satisfactory statement of Gen. Dix.

It seems, therefore, that Trinity Church neither makes its gifts with the view of exercising any influence over the churches aided, nor does, nor can exercise any control by such means.

We are next told that Trinity Church is influenced by partizan considerations in making her gifts to other churches. The witnesses who were called to prove this were the Rev. Jesse Pound, the Rev. Dr. Anthon and Mr. Wolf.

The testimony on this subject, produced on the part of the church can leave no doubt of the entire falsity of this charge, commencing with the solemn denial of the venerable Dr. Berrian, the rector, " as a christian man and a christian minister, I declare that I have never heard one [charge] which appears to be more unfounded and unjust. I have for twenty-eight years, as assistant rector and rector, presided at the meetings of the vestry, and I have never heard a syllable from any member of that body, in any application before them, which would warrant the charge, that it would be determined on partizan grounds. What influence the difference of opinions may exert on individual minds, it is impossible to tell, but I know very well that the question never comes up, nor is ever alluded to in the vestry itself."

Mr. Skidmore, of the standing committee, gives a similar answer, and adds; "if I thought that any application, in all other respects meritorious should be rejected on the grounds of its being low church, I should resign my place as a member of the standing committee.

Mr. Moore, who was on the standing committee, and was a member of the vestry for eighteen years, confirms this, and adds that every case is discussed and decided upon its merits. General John A. Dix, the Hon. Gulian C. Verplanck and Mr. John R. Livingston, none of whom are members of the standing committee, make the same statement.

But though these witnesses have proved, under the solemnity of an oath, that all grants are made by the vestry upon the merits of each case, without any regard to the party character of the church applying for assistance; particular cases of church applications have been relied upon to show that the *action* of the vestry indicates that they are in reality influenced by party considerations. I will, therefore, refer to the cases mentioned.

St. Jude's. It is established by the testimony, and I need not refer to it more particularly, that there were Churches in the immediate neighborhood, one especially, long and well established, so near as to show that this Church was unnecessary. The Rev. Mr. Pound speaks of this and also states that after the application of St. Jude's to Trinity was made, the Rector became a Presbyterian. These facts taken in connection with the state of the finances of Trinity Church, which rendered it impossible for it to grant more than a few of the church applications pending before it, are sufficient to show that no inference can be drawn that Trinity Church refused this application on party grounds.

St. Matthew's. This Church, at the time ofits application was in a low condition, which the Rector of Trinity then knew, as he tells you. Its minister testified before this Committee that it had then "died out." The Vestry of Trinity Church were peremptorily required to pay its debt, stated to amount to $4,800, $1,200 a year for the support of the Church, and whatever might be necessary for repairs. This was an expenditure, which, under the circumstances of the case, it was neither practicable nor useful for the Vestry to undertake; and independently of financial considerations, and the doubt whether aid if rendered would revive this sinking Church, the Committee may perceive from the guarded answers of Bishop Potter and Dr. Berrian, that there were circumstances of a different kind which showed that it would not have been wise to yield to the application. Of those

circumstances it would not become me, any more than it would them, to speak. Moreover, the church property was not sacrificed, but reverted, as Mr. Pound tells you, to the donor, Bishop Eastburn.

St. Luke's. Much has been said of the large expenditures and donations made for this Church. Mr. Verplanck has detailed the peculiar circumstances attending this case. The church is situated in the midst of the leased lots of Trinity Church, with her tenants surrounding it. Its congregation is poor, and utterly unable to support it. The Vestry have always regarded it their duty to maintain this Church, in so far as its own people might be unable to do so. Their ability has grown less year by year, owing to the removal of the wealthier classes to more desirable parts of the city; and the necessary dependence of St. Luke's upon Trinity for aid has, therefore, yearly increased, and probably will still further increase.

St. Timothy's: The application on behalf of this Church required a large expenditure, or the incurring obligations to a large amount. It was in reality, and was felt to be, a noble proposition on the part of the Rev. Mr. Howland. It was a subject of repeated discussions both in the Vestry and in the Standing Committee. It was twice reported upon and twice referred, and finally the report of the Standing Committee on this subject was laid upon the table, and has not yet been acted upon. If in any case the Vestry could be influenced by partiality it would have been in this. Mr. Howland is a high churchman; and not on that account, but on account of the generous, self-sacrificing charity which marked his proposal, and of great personal regard for its author, every Vestryman was moved, and none more strongly than myself, to co-operate with him in his plans. But the condition of the affairs of Trinity Church, an insuperable obstacle, has hitherto prevented compliance. The action of the Vestry upon this application, brought here as an accusation against us, ought to be viewed as strong evidence of the impartiality of the Vestry.

In answer to all that I have put forward to justify the vestry against this charge of partiality, it may be said that the acts of

that body prove the accusation because the amount of gifts to low Churches does not bear a due proportion to the amount given to high Churches. But this is a question of motive. By what motive were the vestry actuated? And it is impossible with justice to discredit the solemn declarations of the gentlemen concerned when they say that they were influenced only by a consideration of the merits of each case. If there were any disproportion, it must be regarded as only accidental, because it cannot with certainty be reasoned that it was designed. For instance, a case might be supposed, when at the same time there were ten applications before the vestry, five of one class of Church opinions, and five of another. Five, all of one class might be granted on their merits solely, and the other five rejected solely on the same ground. The conclusion therefore is not sound that the vestry must have been influenced by partizan feelings, because (as Dr. Anthon says,) from 1835 to 1847 they granted more in proportion to high churchmen than to low churchmen.

Indeed, if a long instead of a short period of time be taken for a comparison of the gifts made to Churches, of the class called high Church, with those made to Churches of low Church opinions, no such disparity as has been relied upon would appear, for Dr. Berrian says: "It would be exceedingly difficult to make a comparison from actual facts, but I think I may venture to say very safely, that if the aggregate amount of the favors and benefits received from Trinity by those Churches whose rectors and vestries are supposed not to sympathize with her in her views, were set against the amount received by those whose rectors and vestries cordially do, that the groundless charge of undue partiality would be still more apparent. In this comparative estimate, however, must be included what the coporation has done for St. Mark's Church, Grace Church and St. Georges, whose rectors, if we may judge from their evidence in the present inquiry, appear to have had no great good will towards Trinity Church; though with more reason for kind feelings and grateful recollections than all others."

The next charge is that stipends have been reduced. Dr. Tyng says that he has heard of no instances where they have not been reduced, and he has heard of several where they have. This is mere hearsay ; but it is disproved.

Mr. Skidmore, Mr. Moore, and Mr. Livingston, have all testified on this point, and they say that the aggregate amount of stipends has, as they believe, not been reduced ; that the stipends have indeed been reduced and sometimes wholly taken away from those churches that could afford to do without them or with a less amount: the rule being to give these allowances, for the support of the clergymen, to the poor churches and take them away from the rich, and to give according to the needs of each church.

The comparative statement contained in the testimony of Gen. Dix confirms these statements, and shows that for only two of the ten years last past, were these stipends larger than they are now in their aggregate amount.

Complaint is made of the frequency and facility of refusal, and of ungracious and wearisome reluctance in granting, to increase the sense of obligation.

This is entirely untrue and arises only from an exaggerated notion of the means of the corporation. Mr. Skidmore tells you that there are numerous and continued applications, so that never can more than one in ten be granted. His testimony has been misrepresented in the public prints, and therefore I read his answer on this subject. He was asked, is it true that aid was given to churches reluctantly and offensively? and replied, "Reluctantly only when our sympathies were running away with our better judgment; never offensively, I should hope. I would like to say in addition that applications were very numerous and many of a highly meritorious character, and which we were obliged most reluctantly to refuse, and which enlisted our strongest spmpathies. When we had the means at our disposal, we took great pleasure in granting the applications."

Mr. Moore makes substantially the same statement.

I submit that the truth is apparent from the whole testimony that in making grants to other churches, the vestry have performed its duty with a sincere desire and effort to do the most good in its power, and in the right quarters ; and that this charge results from suspicion merely, and from the discontent that might be expected to be exerted by the necessary refusal of a large number of applications, and by unavoidable delays in granting others.

I have now finished my remarks upon the charges against the vestry of mismanagement affecting the Church at large.

We are next told that the altered policy, (altered since 1814,) of giving money rather than land, has produced disastrous results on the parish itself. Some of the charges under this head related to the administration of its estate and the management of its internal affairs by the vestry.

And first, as to the alleged unsuccessful attempt to see a list of the corporators. There was, indeed, one such instance, and one only—that of Bishop Wainright. Dr. Higbee testifies that there was but one application, and that made by Bishop Wainright, both on behalf of himself and Dr. Higbee, and it certainly appears that Dr. Berrian, owing to his desire not to interfere with the duties of the officer having the custody of the list did not show it when requested so to do ; and that its inspection was also refused, not by the Comptroller, but by a subordinate clerk in the Comptroller's office. It is, however, sufficient to prevent any imputation against the vestry, growing out of this occurrence, to refer to the testimony of Dr. Berrian, Mr. Skidmore and Mr. Moore, by which it is clearly proved that there was never any rule or order of the vestry, at any time, justifying such a refusal; that it was done entirely without authority; and that as soon as it was brought to the attention of the vestry they rebuked the action unanimously, by declaring that opportunity to make the inspection should be afforded to Bishop Wainright, and that he should be allowed to take such copies or extracts as he might think proper. A copy of the list was afterwards sent to him. It is also proved by the same witnesses, or some of them, that the books containing the names of the corporators are always open to inspection, and at every election are taken to the place where the election is held. It appears, moreover, from the testimony, both of Dr. Berrian and Dr. Haight, that every care is taken to add the names of new corporators.

The vestry have also been censured because it appears from the testimony of Mr. Wolf, (the only witness on this subject against the vestry,) that some of the corporators being pew-holders are dead, and some have removed from the city. The supplemental report of the Church states, that the lists of corporators therein given were believed to be accurate. Dr. Haight

has explained that it is difficult even for the officiating clergyman to ascertain whether pew-holders have died or have left the city, and as Mr. Wolf merely says that there are *some* names of deceased persons and of persons residing out of the city, it is very likely that the error is small in amount, and it is certain that no want of good faith can be justly charged upon the vestry in this matter. The mistake might readily occur, notwithstanding that reasonable care was exercised.

The next complaint is of the letting of pews in Trinity Chapel, that these were so let that the lessees of the pews could not be corporators by virtue of their being pew owners. Such an arrangement was certainly made by agreement between the lessees of the pews and Trinity Church. The circumstances which induced this arrangement have been very clearly explained by Mr. Skidmore. They were as follows: No person can become a corporator of Trinity Church as a pew holder without the consent of the vestry, because no person can hire a pew without their consent. And ordinarily these hirings take place by private arrangement between the vestry or their agent and each individual applying for a pew; thus affording an opportunity to ascertain the character of each applicant. But in the case of Trinity Chapel the pews were leased at auction, and as any person might bid, it was impossible to make any discrimination as to persons who should be allowed to take pews. And considering the importance of the interests involved, and the facility afforded by an auction sale for combinations, and for the introduction of improper persons who might be even of a different religious denomination, it seems to have been both natural and proper that some measures should have been adopted to guard against the evils which might otherwise have resulted. For these reasons the arrangement which is censured was entered into. It was but temporary, by the letter of the agreement to extend for not more than two years. No one was injured by it, nor deprived of any right that he could have possessed as a pew holder had his lease contained no such provisions; for, as testified by Mr. Skidmore, none of the pew holders in Trinity Chapel would have been entitled to vote at the next Easter election after their hiring, for the reason that they had not then been members of the congregation for one year. And when it had been ascertained that the apprehended danger had passed, before the first term of letting the pews had expired, the arrangement complained of was vaca-

ted, and the lettings of the pews were made in such form that the pew holders had a right to vote. Mr. Clayton is mistaken when he supposes that he is not a corporator as a pew holder of Trinity Chapel. On the very day on which he testified he was a corporator, being then a pew holder and having been a member of the congregation for one year.

Another charge, to the prejudice of the Church, was, that the vestry had required that all persons desiring to vote should give written notice of such desire to the Rector. Mr. Wolf tells us this, but he must have been under a misapprehension, which is not improbable, as he speaks of what occurred in the vestry while he was a member of it, which he ceased to be ten years before he testified. On the other hand, Dr. Berrian, who as Rector of the church, must have known of such a regulation, if any had existed, testifies that he does not know of any such requisition.

The next complaint is that "there is so little interest in the vestry elections that, in eight out of the past ten years, an average of hardly one in ten of the corporators cared to appear; and on one occasion only twenty-three persons voted for twenty-two wardens and vestrymen." Any one who knows anything about the elections of church corporators must be perfectly aware that this is a very common state of things and exists in all parishes. Bishop Potter and Dr. Haight have proved this very clearly. The latter says: "That at the elections for churchwardens and vestrymen of another church in New-York, (of which he was the rector for ten years,) of which there were from 100 to 150 corporators, although he presided at all, he never saw more than four or five voters at any election, except on one occasion of great excitement when there were thirty." And Bishop Potter speaks of the practice at St. Peter's church, Albany, of which he was rector for 22 years, where with 100 or 125 corporators, there were at the Easter elections on an average only from six to ten persons present. And both these witnesses say that this is the ordinary condition of things throughout the diocese, and is generally a favorable indication as showing that the corporators are satisfied with the administration of the affairs of the parish.

We are next told that the " apathy " which is supposed to be indicated by the fact that few voters attend the elections, extends to the vestry itself, and it is said that every thing is left to the standing committee of the vestry, and no one else knows anything about the affairs of the Church.

There can be no doubt left in the minds of the committee on this subject. The Rector, Mr. Skidmore, and other members of the vestry, have shown the course of business. The standing committee have power only to lease lots; all other matters which they take into consideration are first brought up in the vestry and referred to the committee. At every meeting of the vestry, as part of the order of business, full minutes of the standing committee, containing in detail all their actions, are read; their recommendations are then passed upon in that body after being freely discussed, and in many cases are overruled.

This committee have had the most satisfactory evidence that members of the vestry, not on the standing committee, do know something of the affairs of the Church. Three gentlemen, not of that committee—John A. Dix, Gulian C. Verplanck, and John R. Livingston—have been examined. It must have struck this committee that these witnesses exhibited not only great and accurate knowledge of the business of the corporation, but a warm and active interest in the performance of their duties. And if any member of the vestry lacked a sufficient knowledge of its concerns, it must have been through his own fault; he had the same opportunities for information as others. It has been proved that access to books and other means of knowledge, is open to all vestrymen, that an account, showing the receipts and expenditures and condition of the corporation, is made by the Comptroller annually and carefully audited by a committee appointed for that purpose, who have every facility afforded to them for testing the accounts, which are afterwards subject to the inspection and examination of all the members of the body. When I observed the testimony of Mr. Curtiss, a member of the Vestry, who is represented to have said in his testimony that the auditing committee have access to all the books referred to in the annual report, and such only, I knew that he could never have meant to be understood that ac-

cess to any books was refused him ; and the idea that it could have been refused, is in conflict with all the other testimony. An ineffectual attempt to procure the attendance of Mr. Curtiss before the committee was made, but he excused himself on the ground of business engagements ; and in the absence of any power in this committee to compel his attendance, we were unable to offer an explanation until the receipt of his note, excusing his non-attendance. This has been presented to and filed by the committee. It will be found appended to the testimony. From this it appears that he did not mean to be understood that he was refused anything, but that the Auditing Committee had access to all sources of information to which they wished to resort.

But Mr. Bradish compares the old policy with the new, and tells us we should make independent Parishes, like St. George's, Grace and St. Mark's, (all built and endowed with land by Trinity), give them land enough to make them independent, and all the dreadful evils he thinks he sees would not exist. Let me make a contrast between the policy of amply endowing Churches with land, prevailing before the year 1814, and the policy of making gifts in money, prevailing since that time.

Prior to 1814, there were grants of 318 lots, by means of which were endowed three charitable and educational institutions—Columbia College, Trinity School, and the Society for promoting religion and learning ; three amply endowed Churches—St. Mark's, Grace, and St. George's ; and twelve other Churches to which were given lots of land in much smaller proportion than to the three Churches last named,—thus making eighteen Churches and institutions benefited by the gift of 318 lots.

One thousand and fifty-nine lots have been sold by Trinity Church, and out of the proceeds derived from the sale, she has given away for the benefit of other churches and institutions $1,287,392.75. Suppose these lots had been given for endowments—if these were as liberal as those made before 1814, the 1059 lots would have served to endow, at the most, forty-four churches and institutions, and indeed it may be doubted whether they would have sufficed for that purpose; for the three churches above mentioned to have been amply endowed, were not only given land, but were built by Trinity Church, and the twelve other

churches were only assisted, by the lots granted, to a very limited extent. If, on the other hand, lots to the value of $50,000, a small allowance for an endowment, had been given to so many churches as the last mentioned sum would have sufficed for the endowment of, on Mr. Bradish's principle, not more than twenty-five churches could have been made independent through these 1059 lots.

But what has Trinity Church accomplished by the sale of these lots, and by granting to other churches and institutions the moneys received from the sale? By this policy deemed so unwise, St. George's, Grace and St. Mark's Churches have been built; more than two hundred other churches have been aided, upwards of one hundred and fifty of them in the country; Hobart Free College, at Geneva, has received an endowment of $3,000 a year, on the condition that it shall be free to all; the Theological Seminary and Missionary Boards have been assisted; an Episcopal residence has been purchased; infirm clergymen and families of deceased clergymen have received annuities and other assistance: and these are only some of the results of the change of policy which has been complained of.

The object of this change of policy is manifest. It was to distribute the fund to be derived from the gradual disposition of the real estate amongst many churches and institutions, doing for each only what it could not do for itself, and looking to the probable beneficial results in each case, rather than to make a few favorites rich and independent; to encourage individual effort by timely and judicious aid in every quarter, in city and country. If the other policy had been followed, the property would have been distributed long ago without provision for the future, and churches coming into existence afterwards could have had no help.

Take then these facts: Sales of the real estate have been made from time to time, so that now only one-third of the original estate remains—large annual deficiencies during the last ten years have been occasioned solely by the gifts of the Church—there is pressing need for larger expenditures in her own parish, and the question is answered, "do you think that Trinity Church has done her utmost to make the capital of that corporation available for the founding, or support, or promotion of religious, charitable, or educational institutions, or purposes?

This question is extracted from the report of the Church. How did it there occur? It occurred in this way. The report showed how Trinity Church had been in the habit of spending her capital year by year for the purpose of assisting by gifts of lots or by proceeds of sale, as opportunity offered, other Churches in the city of New-York and in various parts of the State, and to found and aid by the same means, institutions of learning or charity, or to contribute to the maintenance and support of the organization of the Church in this State—thus reducing her estate to one-third its original extent; and that she had, moreover, incurred a large debt, mainly in order to meet the pressing needs of other Churches and institutions, which must be provided for out of the proceeds of sales. Then she claimed that this statement would show that her vestry had done their utmost to make the capital of the property of this corporation available for the purposes mentioned in the above quoted question. And yet this question was asked over and over again, of the witnesses examined in New-York. What knowledge of facts had they to enable them to answer it understandingly? It does not appear that they had any. They were not even examined as to the facts that might have been within their knowledge. Of what value is such testimony? And even if they were acquainted with the facts necessary to form a judgment, the testimony would not have been admissible because they were not called as experts, and it was for the committee, and the committee alone to come to the conclusion on the facts presented to them. None of the opinions of the witnesses, therefore, on this subject deserve the least consideration.

The truth is, that there is a class of persons in the city of New-York who think and claim that all the property of Trinity Church belongs not to that corporation, but to all persons there residing in communion with the Protestant Episcopal Church, and who entertain grossly exaggerated notions of the value of that property; we may tell these gentlemen over and over again, in answer to their applications that her debt is enormous, and that it is impossible to meet the demands that are made upon her; but it is of no avail. And if you were to propose to all of them the question to which I have objected, you would get from all the

same answer which was elicited from so many witnesses in New-York. They would speak from their prejudices; and this is the key to the correct appreciation of the whole evidence against the Church.

And let me in this connection call the attention of the committee to the witnesses that are supposed to substantiate the charges against the vestry. Three of them are assistant ministers of Trinity Church who have come to Albany to explain their testimony and have vindicated the Church; two are vestrymen who spoke of matters since explained; eleven others testified, merely, as to the values of lots; Clayton as to the lettings of pews in Trinity chapel; Wiley and Webb as to immaterial matters and Dr. Muhlenburg, whose motives no man would impeach, testified as he himself says, on information merely, so far as concerns any facts in dispute, and certainly under an entire misapprehension of the ability of Trinity Church. Leaving out those I have just named, all the other witnesses are of two classes and of two classes only. They are clergymen who have applied on behalf of their Churches to Trinity Church for aid and have been unsuccessful in their applications; or they are parties to this controversy, whom it suits now to remain concealed, but who were engaged in the same contest in 1846-47, as appears in evidence; and who it may be seen by the public prints are at this moment the most active in the same attempt which was made in those years, with the exception of Dr. Tyng, who, not then in New-York, was not on the former occasions a party, but is now among the most violent. They sought, under cover of the clamor they intended to raise, and the popular prejudice they hoped to excite, to procure on the instant the repeal of the act of 1814. Actuated, then, by the strongest interest, and, if there is any force in my comments upon the course of these proceedings, attached with all the blame and odium that ought to fall upon the authors of the present attack, they came before the committee to testify to suspicions, rumors and hear-say, attributing unworthy motives to gentlemen, if not so high in position, at least as respectable as themselves. That they are gentlemen of respectability and character, I admit, but their positions cannot justify disreputable conduct, though prompted by party prejudice and narrow, distorted views.

Several of the gentlemen whose names I have here written and have read to the committee as really the actors, are men of large estates, and I undertake to say that three of them are worth

together half the value of the property of Trinity Church ; and when they come and tell us—as Mr. Minturn has done—(himself noted for his liberal charities) that because Trinity will not give, others refuse, it is no justification of the charges they make. They complain that we decline to do what we have not the power to accomplish, and because we cannot respond to their demands they withhold their own charities. And who amongst the clergy complain at our want of care for the spread of the Church? It is remarkable that they are the Rectors of those churches for whom Trinity Church has done the most—of St. Marks, St. George's, and Grace! Churches made independent and rich by her gifts.

Next it is said—most monstrous slander of all—that Trinity Church has totally neglected the wards of the city inhabited by the working classes, and it is intimated that the "general torpor" extends to the ministrations of the parish.

Gentlemen, if there is any thing proved during this examination of a satisfactory character, the evidence on this point is most conclusive. Every other Episcopal Church formerly situated in the lower part of the city is gone. St. George's left Beekman-street, and to preserve her church edifice to the service of God, Trinity was obliged to pay her $50,000. Grace went also, and they both abandoned, to the care of Trinity Church, the districts which they left. These churches were in a part of the city which is now occupied by the poor or by individuals of very moderate means, and the places they left we now occupy alone ; and having thus themselves abandoned them they now come and complain of us that we are doing nothing for the poor! But the Churches of Trinity remain. She has not sold them. Trinity Church, the cost of which has been made so prominent, by its architectural merit and beauty, invites and attracts the poor to the worship of their Creator. St. Paul's and St. John's are maintained. Every arrangement is made to encourage the facile approach of the poor. Substantially these churches are free to them, there are so few paying pews in Trinity and St. Paul's, that the pew rents in the former do not much exceed $150, and in the latter $260. In each of her churches Trinity maintains two clergymen, who, with lay assistants, are continually visiting the poor, to ascertain their wants, spiritual and temporal—baptising them, marrying them, burying them, serving them from the cradle to the grave ; offering them advice and comfort and consolation in their distress, and giving them food and clothing. And all this is done under

a well organized system. Nor is this all. The emigrant when he lands at Castle Garden is visited by a clergyman of the church, and when sick at the hospital at Ward's Island, is there also under the care of a clerical agent of Trinity Church. We are amongst the poor, the friends of the poor. Gentlemen, this is no idle tale. It is written here in this volume of testimony under oath.

They presume to taunt us that the parishioners of Trinity Church do not give in charity; they, wealthy members of wealthy congregations, living with the rich, tell us that our poor congregations do not give as much as they. I venture to say that our congregations have given as much according to their ability.

But, why gentlemen are we here? We have no interest in this matter,—we stand here not in our individual capacities; we have nothing to gain, nothing to lose, by the repeal of the act of 1814. But we represent the corporators of this Church, between whom and the State there is a solemn contract of charter. Who are these corporators? The poor men I have already alluded to in the lower part of the city; they are corporators by receiving from the hand of the clergy of the Church the holy communion. They are to be injured, not we. You are asked to establish a state of things that will bring strangers into the fold of Trinity,—a state of things that would bring strangers from other parts of the city to divide this property amongst them, and then Trinity Church—if such a thing were possible, but it is not—and all her establishment in the lower part of the city would cease, and her worthy but independent people would be left in utter destitution, so far as regards their spiritual instruction.

We are told, among other things thrown into the case, that leasehold property in the city of New-York produces inferior improvements and injures property in its neighborhood, suggesting, it must be presumed, this as a reason for taking away leasehold property from its rightful owners and giving it to others, that they may as fast as possible change its character. I know that this committee and the Legislature have too much respect for the rights of property to listen for a moment to such a suggestion, or to regard it, except with the contempt it deserves;

it shows, however, the nature of this contest. But this statement, worthless as it is, is remarkable, coming from any gentleman living in the city of New-York and conversant with the facts. The testimony refutes it; we have instanced the Sailors' Snug Harbor, Columbia College, and Spingler estates, all leasehold, all well improved and all favorably affecting property in their vicinity, and this from the time they were first built upon. The character of the improvements depends not at all, in New-York, upon the land being leasehold or in fee, it depends upon its situation; and this pretence is as false as it is wicked.

Now, gentlemen, all the principal witnesses in this case, who appeared before you in the city of New-York, were players at this game in 1846 and 1847; except one who has since come upon the field, or they are disappointed applicants for aid the Church had not power to grant; we are told they are very respectable men. I trust the respectability of these men will not have any effect upon the deliberations of this committee. They are endeavoring to procure the repeal of the act of 1814, claimed to be a part of the charter of the Church, which has remained undisturbed from that time to this, a period of 43 years, and the property of this corporation is held by the present corporators under a title reaching far back of 1814. For, as I have contended, these corporators have been in possession of the rights they now exercise since 1798, the time of the first establishment of another church, nearly 60 years. If any property in this country is secure, this should remain undisturbed.

Hon. A. J. Parker then addressed the committee as follows:

The part that has been assigned me in the argument of this case, relates mainly to a discussion of the questions of law. I shall cover no ground that has been occupied by the gentleman who has preceded me, and shall refer but little to the facts, except where it is necessary they should be fully understood to enable you to apply the law that governs the case.

I address the Committee as a judicial body. The duty is imposed on them of deciding grave and important questions of law

and fact. I shall assume that their minds are free from the influence of all previously formed opinions. They cannot dispense justice in its purity, unless their minds be, as is required by the common law of a juror, in the expressive language of the books, "like a piece of blank paper," free from all previous impressions.

It is never enough that the mind of a court or jury be pure or honest. Much more is required, or justice cannot be attained. It must be free from all bias and prejudice. It must struggle to discover their existence and to guard against them; and it too often happens that they exist, though their possessor is unconscious of their existence.

I regard it as a great misfortune to us in this case, that some of our testimony was taken in the absence of Mr. Ramsey, and the greater part of it in the absence of Mr. Noxon. Their experience in courts, in listening to testimony and judging best of it when uttered by the witness in their presence, and their distant residence from the city of New-York, the scene where these differences exist, made their attendance more than usually desirable; especially as all the members of the Committee were present at New-York and heard all the *ex parte* evidence of the prosecution. I do not allude to this circumstance in the spirit of complaint, for I am fully aware of the great and pressing labors which these Senators are called on to perform; but I speak of it with deep regret, for no reading of our testimony by those Senators can make so deep an impression on their minds, as would the listening to the evidence as it fell from the lips of the witnesses. It is necessary to see the witnesses and to observe carefully their manner and appearance, to enable you to judge best of their intelligence and character, of the purity of their hearts and the truthfulness of their words. Two members of this Committee, experienced in courts, will readily appreciate the advantages of hearing and seeing the witnesses.

I am the more embarrassed by this circumstance, because I do not feel at liberty to detain you so long as to read over to you the evidence we have taken. I beg leave to say, however, that the witnesses we have called are men of the highest standing and character in the State; such men as Bishops Potter and Delan cy

Gen. Dix, Mr. Verplanck and others of equal standing; men whose integrity has never been questioned, and whose opinions are entitled to the highest consideration.

All the charges against Trinity Church, on the part of the prosecution, were based on hearsay and suspicion. Every one has been fully met and answered by competent evidence —overwhelmingly and conclusively answered. We ceased only to call witnesses, when members of the Committee assured us there could be no necessity for further cumulative evidence. We have called evidence to every charge and even to every insinuation made by the witnesses for the prosecution—evidence that will go out to the world and will be read—for a deep interest is now felt in this matter—it will be read carefully by every churchman and I hope by others—and by this evidence, the prosecutors, Trinity Church and even yourselves, in your conclusions upon it, shall be judged.

I concede that nearly all this evidence on both sides is entirely foreign to what I suppose is the main object of this prosecution, viz., the repeal of the act of 1814. How the property has been managed and what is its amount, can certainly have no connection with the right to vote at the annual vestry elections. As a lawyer, I could not advise that any evidence upon these questions was necessary on our part, to enable us to resist all legislative interference with our legal rights. But the evidence has been given by us for the purpose of putting at rest, I trust for all time to come, the gross misrepresentations that have been made and circulated on those subjects; to vindicate, before the whole community, the management of the affairs of Trinity Church, against the assaults of her enemies.

It was clearly not the design of the original charter that any person should be a voter at the vestry elections, unless he belonged to Trinity parish. By the original charter of 1697, it was provided that the wardens and vestrymen should be elected "by the majority of the votes of the inhabitants *of the said parish*, in communion, as aforesaid;" that is to say, as previously expressed, "in communion of our Protestant Church of England,

within our city of New-York." None but the parishioners of Trinity Church had a right to vote.

The act of 1704 did not change this. By section 6, the inhabitants were to meet annually at the said church, to choose two church wardens and twenty vestrymen, communicants of said church, " by the majority of the voice of said communicants so met, and not otherwise." By this act, also, none but communicants of Trinity Church were allowed to vote.

The third section of the act of 1784 changed materially the corporators, by allowing *pew holders* to vote, in addition to *communicants*. It was as follows :

§ III. Be it further enacted, &c., that all persons professing themselves members of the Episcopal church, who shall either hold, occupy, or enjoy a pew or seat *in the said church*, and shall regularly pay to the support *of said church*, and such others as shall *in the said church*, partake of the holy sacrament of the Lord's Supper, at least once in every year, being inhabitants of the city and county of New-York, shall be entitled to all the rights, privileges, benefits, and emoluments, which in and by the said charter and law first above mentioned, are designed to be secured to the inhabitants of the city of New-York in communion of the Church of England."

It will not be denied but a new class, viz., pew holders, was then admitted to vote. Communicants were to vote as before. It has been claimed that the words "in the said Church", mean in the Episcopal Church, in a general and denominational sense; and this breadth of construction has been attempted to be given to the section, so as to include all communicants and all pew holders in any and every Episcopal Church in the city of New-York. I deny the fairness of this construction. I claim that a careful examination of the act will conclusively show that the words "in the said Church," have an individual and local signification, and are not used in the broad sense imputed to them. The act is entitled " an act for making alterations in the charter of the corporation of *Trinity Church*," &c. In the second section power is conferred upon the wardens and vestrymen to call and

induct a Rector *to the said Church*, so often as there shall be any vacancy therein. This could of course mean no other than Trinity Church ; and in the third section above quoted, I do not see how it could be doubted that the expressions " a pew or seat in the said Church," and paying " to the support of the said Church," and " partaking of the holy sacrament in the said Church," are intended to have a local and individual application and refer to Trinity Church alone.

It could have reference to no other Episcopal Church in the city of New-York, for no other Church of that denomination was erected in that city till nine years afterwards.

The act of 1788, made no change in the charter of Trinity Church, except a slight modification of the corporate name.

It was not until 1812, when there were nine Episcopal Churches in the city of New-York, and nineteen years after the first of such additional Churches had been built, that a claim was made by two or three persons, being corporators of other Episcopal Churches, to vote at the Trinity vestry election. In consequence of that claim, of which I shall speak hereafter more particularly, the act of 1814 was passed. That act was entitled " an act to alter the name of the corporation of Trinity Church in New-York, and for other purposes," and the second section was as follows :

" And be it further enacted, that all male persons of full age, who for the space of one year preceding any election shall have been members of the congregation of Trinity Church aforesaid, or of any of the chapels belonging to the same, and forming part of the same religious corporation, and who shall hold, occupy, or engage a pew or seat in Trinity Church, or in any of the said chapels, or have partaken of the holy communion therein, within the said year, and no other persons, shall be entitled to vote at the annual elections for the churchwardens and vestrymen of the said corporation."

It is this section, so clear and explicit in its provisions, that the movers of this investigation seek to repeal, under the erroneous supposition that if it were repealed, members of the

Episcopal Churches in the city of New-York, not being either pewholders or communicants of Trinity Church or its chapels, would have the right to vote at the annual vestry elections of Trinity Church. The object of this movement is, by controling the elections of wardens and vestrymen of Trinity Church, to select those who will appropriate the property of Trinity to the benefit of other Episcopal Churches in the city of New-York.

It is only thus incidentally, and as a consequence of enlarging the number of corporators who may vote at the vestry elections, that any question of property is involved in the controversy. It is a question of the right to elect those who control property, and not a question of ownership itself. Some have been misled by the erroneous impression, that the property of Trinity Church is held in trust for the benefit of others. There is no foundation whatever for such an opinion. A careful examination of the charter and grants will show that the property was given to the corporation alone as its own absolute property. It is only subject to that great trust, that high religious obligation, by which all possessors of wealth, yourself, Mr. Chairman, and all others, are responsible to the Most High for a proper application and use of the gifts of Providence. In that sense it is a trust estate and in no other.

The impression I have referred to may have been derived in part from the original name given to the corporation. By the charter of 1697, the corporation of Trinity Church was declared a body corporate, by the name of "The Rector and Inhabitants of our said city of New-York, in communion of our Protestant Church of England," and this name underwent but little change until the act of 1814. Now it seems to be supposed that because the inhabitants of the city of New-York are mentioned in the name of the corporation, they are all to be deemed incorporated and included. But every lawyer must know that powers can neither be enlarged nor restricted by the mere name given to a corporation. Indeed it is not at all material, as a matter of law, that a name should indicate either the object of a corporation or the number and character of its corporators, though it is certainly advisable as a matter of taste, that the name should be appropri-

ately chosen. The Legislature may incorporate a company called the "The Merchants of Albany," but such a name would not make all the merchants of Albany corporators, any more than the name of "Mechanics and Farmers' bank," would legally indicate that it belonged to mechanics and farmers alone, and exclude all others from an ownership in its stock. We have near by a bank called the "National Bank," but it is simply a State institution.

A grant made to "The Rector and Inhabitants of the city of New-York in communion of our Protestant church, &c.," is simply a grant to the corporation. It conveys no interest to the individual inhabitants of the city. The grant of Queen Anne, made in 1705, after reciting the incorporation by the name I have quoted, proceeds to give, grant, ratify and confirm unto the said "Rector and inhabitants, &c.," certain property, to have and to hold to the said Rector and inhabitants, &c., and their *successors forever*. Thus using words of perpetuity applicable to a corporation alone. The property is thus given to the corporation as such in its own right, in perpetuity, and no individual right vests under the grant, in any inhabitant of the city of New-York. No lawyer can fail to understand that "successors" is a word of perpetuity, applicable only to a corporation, not to individuals.

The selection of the corporate name of Trinity Church was made in accordance with a custom prevailing at that early day. St. Peter's Church, in this city, was chartered in 1769, by the corporate name of "The Rector and Inhabitants of the city of Albany, in the county of Albany, in communion of the Church of England, &c. That name was changed in 1789 to "the Rector and Inhabitants of the city of Albany in communion with the Protestant Episcopal Church, in the State of New-York," and it still bears that name, though there are four other Episcopal Churches in the same city A grant now made to "the rector and inhabitants of the city of Albany," &c., would be simply a grant to the corporation of St. Peter's Church. Bishop Potter tells us in his evidence, that when St. Paul's Church was set

off and organized in this city, no one thought of its making a claim on St. Peter's for a portion of its corporate property.

Mr. Verplanck also informs us that the Episcopal Church at Fishkill was chartered under a like corporate name; and by reference to 3 R. S., 1st ed., 544, it will be seen that the Episcopal Church at Poughkeepsie was called "the rector and inhabitants of Poughkeepsie in communion," &c. Grace Church, in the town of Jamaica, Queens county, was called "the rector and inhabitants of the town of Jamaica, in communion," &c.; and similar corporate names were given to other churches.

At the time Trinity Church was chartered, and for many years afterwards, it was undoubtedly supposed that this church would be sufficient for the accommodation of all the inhabitants of the city of New-York, who were in communion with the Episcopal Church. The original charter, and the subsequent legislative acts, were evidently framed upon the idea that provision was to be made for but a single parish. With that view the church building and churchyard, in the charter of 1697, are declared to be "the parish church and churchyard of the parish of Trinity Church," and were dedicated "to the service of God for that use and purpose, and no other." And it was also declared that "the rector shall have the care of the souls of the inhabitants within the said parish, in communion," &c. The power of "regulating the affairs of the said corporation and parish of Trinity Church" was given to the vestry, and the church wardens were expressly prohibited from disposing of any of the pews to any person not an inhabitant. Indeed, the charter went so far as to declare that the church and churchyard should be "the sole and only parish church and churchyard in the city of New-York."

Even at that time, when there was no other Episcopal Church in the city of New-York, it did not follow that a member of the Episcopal Church, happening to come to the city of New-York to reside, had a right to vote at the vestry elections until he became a member of the parish; for, by the charter, full power was given to the church officers "to choose, nominate and appoint, so many others of our liege people as they should think fit, and shall be willing to accept the same, to be members of the

said church and corporation." This power to admit, which implies the power to reject, if the applicant be not qualified or be unworthy, is of course only applicable to inhabitants of the city of New-York, for all others are expressly excluded by the charter. It shows a discretion in admitting parishoners, vested in the officers of the church, to be exercised within the prescribed limits—a discretion necessary to preserve the discipline and order of the church. In other words, it shows that the relation of rector and parishioner was first to be established in the usual mode to constitue a person a corporator. In this respect it was placed upon the same footing of all other churches. It seems to me plain that the charter excludes all as corporators who are not parishioners of Trinity Church.

The word "parish" by no means includes all who reside within a given district. The meaning, when used as in this act, is declared by the court in 16 Mass. Rep. 488, to be, "a competent number of persons, dwelling near together and having one bishop, pastor, &c., set over them."

It is an established rule of the English Church, that a person can be a parishioner in but one parish. By the 28th canon of that Church, unless he be a wayfarer or traveler, he is not entitled to partake of the communion except in the parish to which he belongs, though it is in the discretion of the pastor of another parish to admit him. This same rule governs every Episcopal Church in this country, as will be seen by reference to the 13th Canon of the American Church ; and it must be conceded that such a rule is indispensable to Church discipline, and must be maintained inviolate. Surely the English Government will not be supposed to have been willing to violate, by any charter, so well settled and salutary a principle of its own established Church ; and no strained construction should be put on a charter, to give it a meaning so repugnant to the probable intent of the government granting it.

So too in this country, where every form of religion is fully and equally protected, the government will not be supposed to have intended to make an exception to its beneficent rules of toleration, in singling out this particular Church as an object of

unjust discrimination, and despotically to say, it shall not be governed according to the established forms and usages of its faith, by a vestry chosen by its own pewholders and communicants, but may be governed by a vestry chosen by the votes of those who do not worship within its walls, or kneel at its altar; by those who are members of other religious corporations, and aliens to this. Will the law deprive the parishioners of Trinity Church of the rights enjoyed by every other Church in the State of every denomination, that of choosing its own officers? *It would be a deprivation of the right of self government.* A vestry chosen by the votes of those who are members of other religious corporations would select a rector for the congregation, who would not be the choice of the parishioners, and would manage all the affairs of the corporation with reference rather to the interests of the Churches to which the voters belonged, than to those of Trinity Church. It would be an unheard of despotism, thus to permit one set of men to govern another—to control its spiritual as well as temporal affairs. It would be utterly at war with all our ideas of civil and religious liberty.

The principle that makes a person a member of but one parish, and responsible to but one religious society, pervades the whole christian world, and is indispensable to the maintaining of discipline, and preservation of purity. If, when the pastor withholds the sacred elements from one of his flock because of his unworthiness, he can go to another parish, and there enjoy the right to receive the holy sacrament, the Church would fail utterly in its influence and in its power to do good.

I understand that it is the practice in all well regulated churches of different denominations, when a person removes from the parish of which he is a member, to take with him a letter dimissory, accrediting him to the pastor in charge of the parish to which he removes, certifying to his good standing in the Church, on which he is formally transferred from one society to the other, and admitted as a member of the latter.

So universal is the sentiment in favor of the necessity for this discipline, that all our general laws for the forming and regulat-

ing of religious societies are framed upon it. The general act of April 6th 1784, as to all religious denominations, authorizes the male persons of full age belonging to any Church, congregation or religious society *not already established*, to assemble and meet together, and by a plurality of voices, elect trustees and organize as a corporate society. (1 Jones and Varick 104). So too the act of 1801, re-enacted in 1813, called "an act to provide for the incorporation of religious societies," provides in the first section for the incorporation of societies of the Protestant Episcopal Church, but extends its benefits only to those *not already incorporated.* (1 Kent and Radcliff, 336.) By thus allowing a person to be a corporator in but one Church, the statute protects fully the Episcopal and other churches in their long established and indispensable usages.

There is certainly nothing in the charter of 1697, or in the subsequent statutes, that sanctions in the least degree, the idea that persons in communion with the Protestant Episcopal Church, who were parishioners of other parishes, could vote at the vestry elections of Trinity Church. Even if it were the fair interpretation of the act of 1784, that Episcopalians generally who were inhabitants of the city of New-York, had a right to vote, which I deny, yet it is certain that even then, on well settled principles of law, that right would cease on uniting with another congregation. The moment a member of Trinity Parish became a corporator in another Church, he ceased to be a corporator of Trinity Church. (The inhabitants of the Parish of Sutton *v.* Cole, 8 Mass. R. 96. The Methodist Episcopal Church of Cincinnati, *v.* Wood, 8 Hammond, R. 283.)

No one has ever yet voted at the vestry elections of Trinity Church who was not a member of Trinity parish ; and the fact that no one out of the parish so voted or claimed the right to vote from 1784 to 1812, a period of 28 years, shows a cotemporaneous practical construction of the act of 1784, which, in a case of doubt, should be conclusive.

The fact that no person has ever voted at the vestry elections of Trinity Church, except a pew holder or a communicant of that Church, has never been controverted. It was not denied in 1814,

nor in 1846 or 1847, when applications were made to the Legislature to repeal the act of 1814. But we have, nevertheless, not neglected to prove it. I know it is difficult to give proof in regard to transactions which occurred sixty or seventy years ago, but fortunately we were able to produce before the committee two aged men of the highest respectability, whose truth and integrity will never be questioned, who were connected with this Church, and active and zealous in its interests prior to 1812. I allude to the venerable rector of the parish, Doct. Berrian, and the Hon. Gulian C. Verplanck. The latter witness was examined fully on this subject in the absence of a member of the committee, Mr. Noxon. The rector tells us that he never heard of any claim of this kind being made until 1812. Mr. Verplanck was asked if any persons other than pew holders and communicants in Trinity Church, ever voted there? He answered, "never as I believe;" he said that he himself was a corporator there in 1811, that in 1812 there was a great struggle in the parish, arising out of some question between Doct. Hobart, (afterwards Bishop Hobart,) and Mr. Jones; that the excitement was so great that it brought out two or three hundred voters at the vestry election of that year, and that he, Mr. Verplanck, voted at that election. He informs us, that on that occasion, for the first time, two other persons belonging to other Episcopal Churches—corporators of other Churches—came forward and offered their votes and their votes were rejected. It was the great excitement then prevailing that led to this act. At that time there were nine other Episcopal Churches in New-York, the first established in 1793, and the others subsequent to that period; yet no one ever heard of such a claim having been made prior to 1812. It was regarded as an extraordinary circumstance and attracted the attention of the corporators and vestry of Trinity Church, and led to subsequent action of which I shall presently speak.

The following resolution was adopted by the vestry, on the 28th day of March, 1812. It seems to have been passed, as a precautionary measure, on learning that votes of members of other churches were to be offered:

"It having been represented to this Board that certain persons belonging to Protestant Episcopal congregations in this city, which have been incorporated as separate and distinct from the corporation of Trinity Church, and who are not pew-holders in Trinity Church or any of its chapels, claim a right to vote at

the annual elections for churchwardens and vestrymen of Trinity Church, therefore resolved, as the unanimous sense of this Board, that no other persons, except inhabitants of the city of New-York, who profess themselves members of the Protestant Episcopal church, and hold, occupy or enjoy, a pew or seat in Trinity Church or one of its chapels, and regularly pay to the support of the said Church, or regularly worshipping therein, shall partake of the holy sacrament of the Lord's supper in the said Church or one of its chapels at least once in every year, are entitled to vote at the said elections."

It was in consequence of this offer to vote, and very soon afterwards, and for the purpose of putting at rest the doubts on that subject, that Trinity Church applied for and obtained the passage of the act of 1814. It should not be forgotten that Dr. Berrian and Mr. Verplanck, in relating this circumstance of the votes being offered and rejected in 1812, add further, that they learn from documentary evidence, from history and tradition, that no such claim was ever before made.

The petition of Trinity Church, on which the act of 1814 was passed, contains very strong evidence on this subject. After reciting the original charter and the acts subsequently passed, it proceeded as follows:

"That since the passing of the act above referred to, (the act of 1784,) the pewholders of Trinity Church and of the churches or chapels belonging to the said corporation and the regular communicants therein, have been the only persons admitted to vote at elections for churchwardens and vestrymen of the said corporation, according to the just and fair construction contemporaneously and ever since given to the said act."

After proceeding to state further, in the petition, the unexampled increase of the city and the organization therein of other religious corporations of the Episcopal church, and that none of said corporations claimed any right to vote in the elections of Trinity Church, the petition proceeded as follows:

"Nevertheless, a few individuals belonging to such separate corporations, have recently pretended to claim that right, and

at the last annual election of church wardens and vestrymen of Trinity Church, held in the month of March, 1812, two or three persons, being members of incorporated churches, separate and distinct from your petitioners, tendered themselves as voters; but their votes, under an ordinance previously passed by your petitioners, were rejected and no measures have been yet taken to enforce or establish the right so claimed."

The allegations thus clearly made in the petitions were never denied, and ought, at this late day, to be regarded as very strong corroborative evidence of the facts alleged.

On the whole evidence, not a doubt can remain in regard to the fact, that no one ever voted at the vestry elections of Trinity Church, except the parishioners of that church; and the great length of time which elapsed after new churches were incorporated previous to 1812, ought to be regarded as very conclusive evidence that the members of the churches gave to the act of 1784, the same construction which we claim for it. That construction, thus practically agreed upon by all parties, ought not now to be questioned.

One of the witnesses was asked by a member of the committee, if the poll lists had been preserved; and, on that suggestion, we sent for the clerk of the vestry, and examined him as a witness. He states that he has made a full examination of the papers of the office, and that no poll list can be found of a date prior to 1846. Since that time, poll lists have been kept. But gentlemen, poll lists and lists of corporators are very different things. Poll lists are lists of persons actually voting at an election. Lists of corporators are lists of those entitled to vote. The latter have always been kept. They are part of the records of the vestry, they embrace not only the names of communicants received from time to time, but the lists of pew holders also. It seems it had never been the practice to keep lists of voters at the vestry meetings prior to 1846. It was enough that the presiding officer had before him the lists of corporators, that he might ascertain the right of a person to vote, if any such question should arise.

And here, I hope it may not be thought out of place, Mr. Chairman, to call the attention of the committee to the following expression in your report on the *ex parte* evidence, occurring on page 4 of the legislative document. You there say, "it must therefore be an oversight, that among the names contained in these lists," believed to be accurate, "there are those of persons who have removed from the city, and also of others who have *long been dead—some of them for years!*" This is based on the testimony of Mr. Wolfe, as it appears on pages 113 and 114 of the same document; but that evidence will by no means justify either the expression or the insinuation of the report. Mr. Wolfe said, "on the list of corporators who are communicants and not pew-holders, I do not know that any of them have deceased; on the list of corporators as pew-holders, there are *some* names of deceased persons, and of persons residing out of the city." He does not say, as you state in the report, that they have "long been dead—some of them for years!" He said nothing that could imply a censure. His evidence was not inconsistent with the idea that their death or removal occurred immediately before his examination as a witness. Again, the report conveys the idea that the remark was applicable to all the lists, whereas the witness expressly stated, that in the list of communicants, he did not know of any of them having deceased.

But I think a little reflection will satisfy the committee of the great injustice of imputing blame to the officers of Trinity Church, because some names were found in her lists of pew-holders, of persons who were dead or had removed from the city. Suppose a pew-holder to die; does not his family continue to occupy the pew—his widow, perhaps, and his children? Pray, in whose name should the pew be registered, before the son grows up to take the place of the father? The widow cannot, by law, be a corporator. And what injury could be done to any person, if the pew continued for a short time to stand in the name of the late owner, even pending the settlement of the estate? Surely, there can be no danger of an unlawful vote being received from the person whose name remains thus on the list of pew-holders?

It may happen, also, that a parishioner may pass part of his time in the country, occasionally coming to the city and occupy-

ing his pew ; and are the officers of the Church blameable, in such case, for keeping his name on the list of corporators, when it may well be doubted whether he reside in the city or not ? With regard to the list of communicants, there can be no difficulty in making it strictly accurate, and Dr. Haight testifies that he makes the returns to the rector annually ; but with regard to the list of pew-holders there may well be much difficulty. But I will spend no more time on this topic. It seems to me the charge made is utterly unworthy of having been formally placed upon the files of the Senate.

The act of 1814 was passed for the purpose of defining and explaining more clearly who were the corporators of Trinity Church and of putting at rest the doubts which had arisen in consequence of the claim made by two or three members of other churches to vote at the election of 1812. This is apparent from the preamble of the act, which recites that Trinity Church asked that further legislative provisions may be made, "for the purpose of removing *all doubts* respecting their Charter rights, occasioned by the formation of other religious societies in the said city of New-York." It is clear that the Legislature did not suppose it was taking away the right of any corporator. At that time, the office of Attorney General of this State was filled by that eminent jurist and good man, Abraham Van Vechten, and the matter was referred to him by the Assembly for his opinion. He reported as follows: "That he has examined a printed copy of the charter granted in the year 1697 to the rector and inhabitants of the city of New-York, as then established by law, and the acts altering the said charter, together with the bill refered to in the resolution entitled, "an act to alter the name of the corporation of Trinity Church in the city of New-York, and for other purposes," and he is of opinion that the purpose of the said bill will not defeat or vary any existing vested rights under the said charter and acts."

This, gentlemen, was high authority. It was that of the constitutional officer of the government, whose duty it was to give opinions in such cases. This opinion was given with all the acts before him ; at a time when he had certainly a much better op-

portunity of judging than we have now, at least with reference to the co-temporaneous construction practically given to those acts by the parties interested. This opinion was formed and expressed with all the advantages which a period of time forty-three years earlier afforded, and was concurred in by the Legislature.

Gentlemen—The Legislature of 1813 that passed that act, was one of the ablest that ever assembled within this capitol. Among its members were Daniel Cady, Elisha Williams, J. Rutsen Van Rensselaer, Josiah Ogden Hoffman, Nathan Sanford, Morgan Lewis, Erastus Root and Martin Van Buren, the most able and distinguished men of the day—men not likely to fall into the error of invading, by their legislation, the vested rights of any citizen; and there were several others in that Legislature whom I ought, perhaps, to have named in the same list. Six of these distinguished men, whose portraits now grace these walls, and who are looking down this day upon our doings, were concerned in the passage of the act of 1814, either as members of the Legislature or of the Council of Revision. The bill did not pass the Legislature in silence; it was discussed and examined. When it came before the Council of Revision, objections in writing were made by Chancellor Lansing, which, on further examination, were abandoned and finally voted against by their author. Those were honest days, Mr. Chairman, when a public officer, who had been misled by an erroneous impression, might well be expected to acknowledge his error and correct it. I hope, sir, all that honesty has not yet, in the expressive language of the Rev. Jesse Pound, "died out." For this honest and frank correction of an opinion by Chancellor Lansing, his memory has been recently defamed by an editor of a newspaper in the city of New-York, who has disgraced himself before the public, by imputing to the venerable Chancellor that this change of opinion was obtained by corrupt means. Shame upon such licentiousness of the press; shame upon the man who will thus assail the memory of the honored dead—and the greater be the shame if the slanderer be the editor of a newspaper called "religious." A cause must be desperate that requires a resort to such disreputable means.

We suppose then that the act of 1814 changed no chartered rights. But if it did, the change was made *with the consent of the*

corporation and on its application. The Vestry, in its corporate capacity, is the authorized and legal representative of all the corporators. The Vestry have full power to manage and control the affairs of the corporation. It was chosen for that purpose. The corporator as an individual has no power of management. He has surrendered all power to the Vestry and given into its keeping his legal rights. The will of that Vestry, expressed under its corporate seal, is conclusive of the will of all whom the Vestry represents. How else can the Legislature deal with the corporators, except through the corporation acting under its corporate seal? As well might a stockholder in a monied corporation question the vote given on his own authorized proxy, as a corporator deny the validity of the act of the Vestry which he has chosen to represent him. All contracts must be made with the corporation, as such, not with the individual members of it. In the dealings of a corporation, corporators are not known individually. They are merged in the body corporate. The very principle of their organization is that the majority control and regulate its affairs, and the officers chosen are its agents.

In the Bank of Augusta vs. Earle, 13 Peters, 587, Ch. J. Taney says, "whenever a corporation makes a contract, it is the contract of the legal entity—of the artificial being created by its charter; and not the contract of the individual members." In the Lincoln and Ken. Bank vs. Richardson, 1 Greenleaf Rep., 79, it was held in Maine, that the stockholders of a bank are bound by every act which amounts to an acceptance of the terms of the charter on the part of the directors. See also Willcock on Corporations, 202.

The assent of a corporation may be shewn by the acts of its officers or by long acquiescence. (Ang. and Ames on Corp. 4 ed., § 83; U. S. vs. Dandridge, 12 Wheaton R., 70, 71.) Now, in this case, there is no question of the assent of the corporation. The act of 1814 was petitioned for under the corporate seal of the Church. There was the consent of the Legislature and the consent of the corporate body, making a complete contract between them. Having established this proposition, I pass to another point.

A charter is a *contract* between the Legislature and the corporation, made by the assent of both parties ; and when such charter is granted and accepted, the Legislature has no power to interfere with the vested rights of the corporation, because such interference would be a violation of the Constitution of the United States, art. 1, s. 10, which declares that no State shall make a law impairing the obligation of contracts.

This rule was settled in the case of Dartmouth College v. Woodward, 4 Wheaton R., 518, to which all subsequent decisions have conformed. The law has never since been questioned. The case I have last cited was that of a charter from the British Crown to the trustees of Dartmouth College, in New Hampshire, in 1769, and it was held to be a contract within the meaning of that clause of the Constitution to which I have referred, and that it could not be altered by the Legislature without its consent. It was held also that it was not dissolved by the revolution. The charter of Trinity Church stands on precisely the same footing. It was granted by the British Government, was not dissolved by the revolution, but was in fact recognized and confirmed by this State, (Const. of 1777, § 36), and it is not in the power of this Legislature to alter it, in any material respect, except by the consent of the corporation.

If then, a material amendment of a charter can only be made by the consent of the corporation, when such amendment is made as was done in this case by the act of 1814, by the consent of both the Legislature and the corporation, it is a new or modified contract, and cannot be changed back without the consent of the corporation, (1 Kent's Com. 416, 458; 3 Burr, 1656; Rex v. Passmore, 3 Term R. 240; 4 Wheaton, 707). "Nothing seems better settled, (says Mr. Justice Story,) at the common law, than the doctrine that the crown cannot force on a private corporation a new charter, or compel the members to give up their own franchises, *or admit new members* into the corporation."

The only exception to these propositions is when a right to "repeal, alter or modify" is reserved in the act of incorporation; and such a clause has been inserted in all special charters in this State since the decision on the Dartmouth College case, in 1819. (See 2 Kent Com., 7 ed., note b.)

The rule of law I have been discussing, as settled by the Dartmouth College case, is applicable to *private* not to *public* or municipal corporations, (4 Wheaton 518). It will not be denied but that Trinity Church is a private corporation. "Every corporation is private, as distinguished from public, unless the whole interest belongs to the government, or it is vested with political or municipal power." This is the definition given in Rundle vs. Del. and R. canal,1 Wallace C.C. R.,275; see also 2 Kent, 305, 7th ed., note 1. I concede, that in regard to public or municipal corporations, such as cities, towns and villages, the Legislature has full power to repeal or amend, without having made any reservation of power in the charter, and without the consent of the corporation; but that power does not extend to private corporations, such as colleges, churches, academies, &c.; all these come within the law as adjudged in the Dartmouth College case.

We claim then, that the act of 1814 was a contract between the Legislature and the corporation of Trinity Church, putting at rest a disputed question, and passed on the application of Trinity corporation; and that there is no power in this Legislature to repeal it or to change any material part of it.

Forty-three years have elapsed since the passing of the act of 1814. For thirty-two years there was an entire acquiescence on the part of all the members of the Episcopal churches in the city of New-York. This is clearly proved by the testimony of Mr. Verplanck and Doct. Berrian, who speak from actual knowledge, having been present at the vestry elections. During all that long period of time, no such persons offered to vote at the vestry elections of Trinity Church. In 1846, after some such person had applied to vote at such an election, and been refused, certain persons, members of other Episcopal churches, applied to the Legislature to repeal the act of 1814, and the application was reported against by a committee of the Senate, and refused. Nothing daunted by that, they renewed their application in 1847, and it was unanimously reported against by a very intelligent committee of the Assembly, consisting of seven members, and the report was unanimously concurred in by the Assembly. A very able and conclusive report was then made against the petition. And then it slept ten years longer, until this movement was initiated, not openly, as before, by memorial, and ap-

prising the whole world of their object, but secretly, slily getting some one to throw in a resolution just at the close of the session, to take testimony in secret—hearsay evidence—evidence based on mere suspicion—much of it given by witnesses who have no personal knowledge of the facts; vague and very erroneous opinions of the law, sworn to by witnesses and made evidence; and a copy of the testimony refused to be given to the officers of Trinity, till it should first have been reported to the Senate and made public to the whole world. It is in such a proceeding, originated and carried on in this manner, that the attempt is again made, despairing of success by other means, to repeal the second section of the act of 1814. If refused here, as I trust it will be, in common honesty, then ten years more may perhaps elapse before some new scheme shall be devised by these few persevering clergymen and laymen to accomplish their purpose. All these applications have been made by the same persons, and the testimony of Mr. John R. Livingston fully identifies them as the same persons, also, who were the principal witnesses before this committee at its secret sessions in New-York.

The lapse of forty-three years is conclusive against any supposed individual claim of a corporator. It is a lapse of time twice that which is required to bar a claim to real property; seven times that which would bar an action on contract; four times as long as would bar any equity action, and longer than is required even against a claim to real property by the State. Now, after a lapse of near half a century, contrary to all sound principles, an attempt is made to open and renew a controversy long since disposed of, and apparently abandoned.

If the courts, even in mere temporal matters, regard the statutes of limitation as statutes of repose—as salutary means of terminating strife and contention, how much more reason is there for the presumption afforded by lapse of time, when their just application will secure peace to a large and respectable body of the christian church—will save funds consecrated to pious uses from being spent in litigation and strife, and will calm the troubled waters of church controversy.

It was held in the "Winchelsea cases," (4 Burr. 1962,) that twenty years unimpeached possession of a corporate franchise should be regarded as conclusive evidence of right. Twenty years was thus adopted as the legal limitation, beyond which, even as to a private corporation, the right should be regarded as established. This rule of the common law, thus declared by Lord Mansfield, has not, I believe, been questioned. If, in the case of a private corporation, the right will be regarded as settled after a lapse of twenty years, can it be supposed that an individual corporator will be permitted to allege a right disposed of and acquiesced in forty-three years before?

In this respect the act of 1784, under which the right to vote is claimed, and the act of 1814, stand on the same footing. Both were amendments of a charter passed by the Legislature,—the former with the implied and the latter with the express assent of the corporation. Now, if individual corporators are at liberty to go back to the act of 1814, on the ground that that act cut off their rights, may not the individual communicants of Trinity parish go back with the same right to 1784 and complain that that act infringed upon their rights as corporators, by admitting as voters a new and much more numerous class, viz: the pew-holders; who before that and under the original charter had no such right?

If an individual may go back forty-three years to assert such a right, it cannot change the question if twenty-eight more years be added. The true answer in both cases undoubtedly is, that in neither case can the individual corporator have any right. The consent given by the corporation—by the officers who represent him—being conclusive against his claim.

But if any persons were deprived of a right by the act of 1814, which we deny, who were they? Certainly they were only the persons then in existence, and then members of other Episcopal Churches in New-York, and only that portion of those who did not assent to the action of the Legislature. Their number must have been very small at that time; the churches generally approved of the application, and some of them joined in it. No such persons have ever appeared here and asked to regain a lost

right. I doubt if any of them are in existence. A person who was of age in 1812 must be an old man now; and in the changes by removal and otherwise, constantly taking place in the city of New-York, the chances of one such person still remaining there are very small.

The movers of this prosecution are new men, they belong to a later class; some of them have been residents of the city of New-York but a short time; they are men also who never could have had any interest prior to the act of 1814; and there is no pretence, certainly no proof, that they were affected by its provisions. It is plain, I think, that no one has a right to complain, unless it is a party himself aggrieved; and I think it is equally plain that as to all others, all having no rights when an act was passed, the act can never be questioned.

Two or three of the clergymen who are agitating this matter most pertinaciously—who were witnesses before the committee at its ex parte and secret session in the city of New-York—most of whom are proved to have been heretofore applicants to the Legislature on this subject, and who I am told, were most zealously conspicuous at the meeting held in the city of New-York a few evenings ago, are now in charge of churches which have been endowed most liberally from the means of Trinity Church; churches which released long ago all further claims upon its bounty, and one of which at least, and I think more, co-operated with Trinity church in the application upon which the act of 1814 was passed.* I have before me a letter addressed, on the 12th April, 1812, by the rector, wardens and vestry of St. Mark's church, to the vestry of Trinity church, from which I make the following extract: "We have learned with regret that some of our Episcopal brethren, assert the claim of a general right in all the Episcopal churches in this island to vote at your elections for church wardens and vestrymen. Whatever color may be given to this claim by any ambiguous words to be found in your charter, we sincerely take pleasure in declaring, that the congregation of St. Mark's, which we represent, have no desire to assert the claim, and that we will at any time hereafter cheerfully

*St. George, St. Mark and Grace Church have all shared liberally in the bounty of Trinity Church.

unite with your respectable body in an application to the Legislature, if the measure shall be thought expedient, to explain the charter and confine the right of voting to the congregations of the churches under your immediate government." Justly may we exclaim, "Heu pietas—heu prisca fides!"

I have shown that to authorize members of the Episcopal Church corporations, not members of the congregation of Trinity Church or its chapels to vote for the officers of Trinity Church, would be subversive of the letter and spirit of the act "regulating Religious societies," and would render members of other distinct corporations members of two distinct religious corporations at the same time, would deprive the congregation of Trinity Church of the power of choosing their own rector and officers, and of managing their own internal affairs, and would subject them to the government of an overpowering multitude, strangers to the congregation and interests of Trinity Church. Why, gentlemen of the committee, if it were practicable to change this law and do this great wrong, to break in upon the established usages of the Church and say all may come in and vote here, the multitude that would assemble, numbered by thousands, would rush to the Easter elections of Trinity Church, each in the eager hope of securing the choice of a vestry, who would give the larger portion to the particular Church to which he belonged—fifty different and conflicting interests, representing that number of Churches, would struggle for the mastery. It would be strange indeed if disgraceful scenes of discord and strife, and perhaps of violence, were not the fruits of such an organization. Such would, I think, be the inevitable and melancholy results of the mistaken efforts of those who ought to have been engaged in preaching "peace on earth and good will to man" instead of calling out and encouraging the worst passions of our nature.

I trust, neither this committee nor the honorable body which it represents, will lend its sanction to a scheme so mischevious. But it will fall far short of its duty and subject itself to just criticism hereafter, if it fails to meet this question firmly, if it neglects to rebuke, in a conservative spirit, and in strong terms, the agitators who, mistaking their duty, have urged on this nefarious scheme of wrong and plunder.

Do not understand me, gentlemen, as speaking disrespectfully of these men as individuals; many of them are gentlemen of the highest respectability, and of great moral worth, and I doubt not they are "all, all honorable men." I believe if they could look at this question with its train of consequences, from a different and more disinterested point of view, they would be quite surprised at the new aspect it would assume.

Mr. Chairman, I have been aware of some of the extraordinary measures which have been resorted to for the purpose of prejudicing the public mind in advance, on the questions involved in this investigation, but I had not been informed of the slanders which had been circulated out of doors for the same purpose, till I learned it during the examination. Mr. Verplanck was asked by a member of this committee, on request, (but by whom the request was made we were not informed,) whether Trinity Church has recently had any persons employed as counsel or otherwise, now belonging or attached to the judicial, executive, or legislative department of the State government He answered promptly and unqualifiedly, that no such person had been employed, and that from his position on committees of a legal and executive character, he must have known it if any such person had been employed, now or for some years past. Sir, I was greatly obliged to the committee for putting such a question, and enabling us to put down conclusively and forever the slanders referred to. Such dishonorable means, when exposed, cannot fail to recoil upon those who employ them. I will not, sir, retaliate. But we are not to forget that those who are urging on this prosecution, are generally men of large wealth and great influence. They have the means of exerting undue influence even more ample than Trinity corporation itself. They have already succeeded in enlisting in their interests men of prominent political rank, newspapers of influence, and men whom I meet in almost every part of the capitol, watching the progress and caring for the result of this investigation. One of these prosecutors is at the head of a large business corporation, scattering its loans *on mortgage* in every part of the State. While we challenge for ourselves and all our acts the severest scrutiny,

we shall, if occasion calls for it, demand that others be subjected to the same test. Trinity Church will resort to none except the ordinary and legitimate means of defence, but she will rely implicitly upon her own integrity, upon the laws of the country, and the conservative spirit in which they should be administered, to protect her from being wronged.

The third section of the act of 1814, which authorizes Trinity Church to make grants of land to other religious corporations, has been made the subject of criticism. Under our general statute for the incorporation of religious societies, no religious corporation could sell in fee any real estate without an order of the Chancellor (2 Kent's Com., 7th ed.) The enactment of the section in question was certainly a great convenience, even if it was not indispensably necessary, under an ancient rule of the common law.

The sixth section of the act of 1814 provides that when a church shall have exhibited the account and inventory as specified in the ninth section of the act entitled "An act to provide for the Incorporation of Religious Societies," it shall not be necessary for such church again to exhibit an account and inventory, unless such church shall have acquired lands within this State subsequent to the exhibition of such account or inventory.

Trinity Church had exhibited such account and inventory, and has since doing so, acquired no additional lands in this State. It is clear, therefore, that the Senate had no right to call for the returns which have led to this investigation. The Senate certainly could not, by resolution, overrule a valid and binding act of the Legislature, and Trinity Church had a perfect right to decline to answer and could not justly be censured for doing so. But she has not declined to answer; entertaining a profound respect for the Senate and an abiding confidence in its justice, Trinity Church has answered fully.

The attempt which has been made to criticise her report, as not having complied technically with every requirement of the resolutions of the Senate, is equally unworthy and unavailing.

Trinity Church was not called upon to state her opinion of the value of each lot; but she was asked what was "the estimated value of each lot," and she answered fully and fairly. The value of the lots had then been recently estimated by the sworn assessors of the city, and nothing could be fairer than to return that estimate, stating expressly, as she did, by whom it was made. The value was a matter about which persons might well differ in opinion; it was a matter about which two of the gentlemen employed by the prosecutors here to appraise the lots, did, in fact, differ among themselves over $670,000. Mr. Verplanck's testimony shows that no other return of the "estimated value" could have been made than that which was made. If the vestry had attempted to appraise it themselves, perhaps no two of the twenty-two members would have agreed in opinion. It is undoubtedly true, that a large portion of these lots are constantly rising in value, and are now more valuable than when appaised by the assessors. But all this is liable to change, and Mr. Verplanck informs us that in some parts of the city of New York, and particularly about and near Hanover square, real property has depreciated nearly one half within a few years. The same vicissitudes may occur to the property of Trinity Church, when the tide of business, always fluctuating, shall move in the direction of some other part of the city.

While on this subject, Mr. Chairman, let me call your attention to the error of calculation in your *ex parte* report, testified to by Mr. Skidmore, by which you erroneously add more than $1,400,000 to the value of the property of Trinity Church. While you have increased largely the estimate of valuation of the whole property, you have deducted for the leases upon the former valuation. It should not be forgotten, that the present value of eleven and a quarter years' interest in real estate, at 6 per cent., is equal to about two-thirds of the whole value of the property.

But, I ask, what has all this evidence to do with the question of the repeal of the act of 1814? Can that question be at all affected by the wisdom of the policy of Trinity Church, or the amount of her grants, or the objects to which grants have been made? May not Trinity Church do what she will with her own?

Certainly, neither the State nor an individual has the power to question that right, or to despoil her of a dollar of her property, because the policy which has governed her may be deemed to have been unwise.

But Trinity shrinks from no investigation. She has gone into it fully and openly—not in secret. Her defence does not rest upon hearsay, like the charges, but upon positive proof. She calls the members of her vestry ; those who must know best ; who alone could know the representations made by each applicant for her bounty, and disproves, by the most conclusive evidence, every insinuation of partiality and partisanship. It is proved beyond controversy, that no grant was ever made or denied with reference to the "high Church" or "low Church" predilections of the applicants. Trinity Church has shown the extent of her bounties, and the too liberal devotion of her means to purposes of religion, education, and charity. While Trinity Church has aided all but two of the fifty Churches in the city of New-York, there are more than two hundred Churches scattered over this great State that have been relieved and fostered by her. She is indeed the *alma mater* of them all. Though the property belongs to Trinity alone, and she is a trustee in no legal sense, she has been able, under Providence, to accomplish more good than has ever been done by any other private corporation on this side the Atlantic, and probably in the world ; and if not despoiled of her means by the cupidity which corporate wealth is apt to incite, she will go on in her high mission with increased ability and usefulness.

With a present income of less than $100,000 per annum, Trinity Church expends the whole and more in doing good—not in extravagant salaries to her ministers—no sir; the proof shows that the clergy of Trinity do not receive but about one half of the salary that is paid by other churches to some of her reverend persecutors. And yet these faithful ministers of Trinity may safely challenge comparison with any others in the world in the extent and value of their labors. While the wealthy citizens have moved up town, the poor have been left, scattered through the lower part of the city. With these poor are Trinity and her chapels filled, and among them are the faithful ministers of Trinity laboring for good. They give them

instruction and advice ; they pray with them ; they baptize their children and bury their dead. Where else on earth can you find a body of men whose duties are more faithfully or more successfully discharged ?

Mr. Chairman, if her wealth is to be divided it will of course aid the other churches in the city of New-York, your own among the rest—but she becomes at once powerless to do good beyond the limits of the city ; not another dollar could ever afterwards be given to the country churches. Divided among fifty churches in the city, there would be no more property for each than it would desire for its own purposes. The fable would then be realized of cutting down the tree to enjoy the fruit.

Those who serve in the vestry of Trinity to dispense this charity are men of the highest standing in the community in which they live. For 160 years the affairs of Trinity Church have been administered by a long line of eminent men with integrity and liberality. The purity of their motives has never been questioned, it is conceded, even in your ex-parte report, founded on suspicion and hearsay evidence. I am told that Mr. Jay, an opponent of the views and policy of Trinity Church, admitted in a pamphlet published last year, that no great trust was ever administered for so long a time with such unsullied purity. Assailed though the Church has been at different times by rapacious claimants, it has manfully resisted them, and faithfully protected the fund, till, by the increase of the city, it has become a large estate.

Mr. Chairman, has not such a party when accused, a claim not only upon your justice and forbearance but on your respect? Does not the community owe it its thanks for all the good which it has accomplished ?

Gentlemen, the case is now before you. The evidence is to be printed. Thank God, there is a spirit abroad that demands it, and that will secure for it an impartial consideration. We

are ready to abide by the result. The verdict that the public shall render cannot fail to be a triumph to those men who, with no interested motives, and with no desire except to accomplish the greatest practicable amount of good, have given their time and their services gratuitously in the vestry of Trinity Church for the benefit of mankind.

REMONSTRANCE AND PROTEST

OF THE

RECTOR, CHURCH WARDENS AND VESTRYMEN

OF

TRINITY CHURCH,

AGAINST THE

REPEAL, AMENDMENT, MODIFICATION OR ALTERATION

OF THE

ACT OF 1814

IN

RELATION TO THE SAID CORPORATION.

ALBANY:
PRINTED BY C. VAN BENTHUYSEN.
407 Broadway.
1857.

REMONSTRANCE

To the Honorable, the Senate
and House of Assembly of the State of New-York:

The memorial and remonstrance of the rector, churchwardens and vestrymen of Trinity Church, in the city of New-York,

Respectfully Sheweth,

That your memorialists have to defend themselves against an application, understood to have been made to your honorable bodies, by certain persons describing themselves as inhabitants of the city of New-York, in communion of the Protestant Episcopal Church, in the State of New-York, for the repeal or modification of a certain law passed January 25th, 1814, entitled "An act to alter the name of the corporation of Trinity Church, in New-York, and for other purposes."

Your memorialists have also learned with surprise and regret that a bill has been recently introduced into the Senate intended to impair, if not to destroy the rights and franchises which your memorialists have enjoyed without interruption for more than a century and a half.

Your memorialists respectfully represent that the same application was made to the Legislature in 1846, and that it was renewed in 1847; that it was on each of these occasions pressed with great zeal and activity, that it was supported by counsel of eminence who were fully heard on behalf of the applicants, and that its merits were thoroughly discussed and investigated, that standing committees (of the Senate in 1846 and of the House of Assembly in 1847) reported against it, and that the Legislature in each instance refused to attempt any interference with the rights of your memorialists.

Your remonstrants respectfully represent to your honorable bodies, that when the said act of 25th January, 1814, was applied for, the following petition for the same (prepared by a committee of the vestry of Trinity Church, consisting of Richard Harison, David M. Clarkson, Thomas Barrow, Robert Troup, Jacob Le Roy, Peter Augustus Jay and Thomas L. Ogden,) was presented to the Legislature of the State, viz.:

"To the Honorable, the Legislature of the State of New-York:

"The petition of the rector and inhabitants of the city of New-York, in communion of the Protestant Episcopal Church, in the State of New-York,

"Respectfully sheweth,

"That so long ago as in the year one thousand six hundred and ninety-seven, your petitioners were incorporated by letters patent under the great seal of the colony of New-York, and have ever since continued to be a body politic and corporate, by virtue of their said charter.

"That at the time of granting the same, it was contemplated that Trinity Church therein mentioned, should be the sole and only parish church of the Protestant Episcopal denomination in the said city, and that in fact it continued to be so until the revolution by which the independence of the United States was obtained, and for a number of years after that memorable epoch.

"That soon after the revolution above mentioned, an act of the Legislature passed for making such alterations in the charter

of the corporation of Trinity Church as to render it more conformable to the Constitution of the State; by one clause whereof all the rights, privileges, benefits and emoluments which in and by the said charter were designed to be secured to the inhabitants of the city of New-York in communion of the church of England, were conferred upon all persons professing themselves members of the Episcopal Church, who should hold, occupy, or enjoy a pew or seat in the said church and should regularly pay to the support of said church and such others as should in the said church partake of the holy sacrament of the Lord's supper at least once in every year, being inhabitants of the said city.

"That since the passing of the act above referred to, the pew-holders of Trinity Church and of the churches or chapels belonging to the said corporation, and the regular communicants therein, have been the only persons admitted to vote at elections for church wardens and vestrymen of the said corporation according to the just and fair construction contemporaneously and ever since given to the said act.

"Your petitioners beg leave further to shew, that in consequence of the rapid and unexampled increase and prosperity of our country since the said revolution, and the corresponding growth and population of the city of New-York, Trinity Church aforesaid, with the churches and chapels belonging to its corporation, became insufficient for the accommodation of all the inhabitants of said city who professed themselves members of the Protestant Episcopal Church or wished to become so, on which account and for a variety of other reasons not necessary to be suggested, numerous persons of this description have been induced from time to time, to form themselves into distinct corporations, each having its own peculiar endowments and places of worship, with rectors and other officers of their own choice, totally independent of any control or interference of your petitioners.

"That a number of such religious corporations have accordingly been organized as the law directs, some with, and some without the concurrence of your petitioners, to all which your petitioners have made liberal donations, and with whose internal

concerns your petitioners or any of the member of the corporation of Trinity Church, as such, do not claim any right to intermeddle, nor do the said corporations possess or claim any right for themselves or their members to vote in the elections, or regulate the affairs of Trinity Church.

"Nevertheless, a few individuals belonging to such separate corporations, have recently pretended to claim that right, and at the last annual election of church wardens and vestrymen of Trinity Church, held in the month of March, in the year 1812, two or three persons, being members of incorporated churches separate and distinct from your petitioners, tendered themselves as voters; but their votes under an ordinance previously passed by your petitioners were rejected, and no measures have been yet taken to enforce or establish the right so claimed.

"It must be obvious, however, that attempts of this nature cannot fail to produce strife and litigation, and to foster and keep alive pretensions of the most unreasonable nature, and of the most mischievous tendency.

"Your petitioners are, moreover, sensible that since the formation of such distinct corporations, the corporate name by which your petitioners are designated has become inapplicable, and ought to be changed; as they do not comprehend in their body all the inhabitants of the city of New-York who now profess to be of the Protestant Episcopal Church; and your petitioners are further convinced that it has become essential to the peace and harmony of said church, that all doubts respecting the persons entitled to vote for church wardens and vestrymen of Trinity Church, which may exist or arise in consequence of the said separate incorporations, should be finally obviated and settled.

"Your petitioners beg leave further to represent that the law which requires religious corporations in New-York, Albany and Schenectady, to exhibit an inventory and account of their estates and revenue at certain periods, is attended with considerable expense and trouble without producing any valuable effects, that after such inventory and account has once been exhibited

it cannot be useful to exhibit it again, unless the corporation shall acquire further estates, and that as far as the corporation of Trinity Church is concerned they have hitherto complied with the law and hold no property, (their communion plate and church furniture excepted,) other than what they held and were possessed of long before the said revolution and are legally entitled to hold by the charters and grants of the ancient government, confirmed and established by the Legislature of the State ; though your petitioners have greatly diminished that property by grants and donations to Columbia College, to a free school which the Legislature has incorporated, to a society formed for the promotion of religion and learning ; and to many churches and religious societies, not only in the city of New-York, but elsewhere in different parts of the State.

" Your petitioners, therefore, pray that your honorable body will pass an act for altering the name of their incorporation, and also to obviate and settle the questions that might arise in consequence of incorporating other Episcopal congregations in the city of New-York, and to do away the necessity of such inventory and account being exhibited more than once, unless upon the acquisition of additional property, by religious corporations.

" And your petitioners will ever pray, &c.

" By order of the corporation of Trinity Church, in the city of New-York.

[L. S.] T. L. OGDEN, *Clerk.*"

Your remonstrants further respectfully represent that the said petition was true in every particular, that it received the favorable attention of the Legislature, that the bill brought in pursuant to its prayer was popular in both houses of the Legislature and passed by large majorities.

That the application for said bill and the fact that it was pending in the Legislature were notorious, and were the subject of public discussion in the city.

That said bill was fully debated and discussed at the several stages of its passage through the Legislature ; that the House of Assembly before acting on it called on the eminent Abraham

Van Vechten, then Attorney General of the State, for his opinion on the questions of right alleged to have been affected by it, and that that officer returned it as his opinion, that the proposed bill, if passed, would not vary, affect or divest any existing right.

That objections were made to it in the council of revision, on which that board was equally divided, so that the bill became a law in conformity with the then existing Constitution, the council of revision having taken no order upon the subject.

Your remonstrants further represent, that if the law of 1814, had not been passed, the reasons urged in the above petition would apply to the present day with much greater force than they did then, and justice and public policy would now require the passage of a declaratory act to the same effect.

Your remonstrants further represent, that the law in question, while pending before the Legislature, received the general approbation and support of the Episcopal inhabitants of the city of New-York. That it has now been constantly acted on and acquiesced in for forty-three years, with the single exception, that at the annual election in 1844, at a time of uncommon excitement in the Protestant Episcopal church, one person, (a gentleman of the legal profession,) claimed the right to vote ; admitting at the same time, that he had never communed in Trinity church or in either of its chapels ; that he did not own or hire a pew or seat in any or either of them, and had never contributed to the support of Trinity Church. That the vote thus tendered was rejected, and that its rejection was acquiesced in without any attempt to establish by judicial proceedings, the claim thus set up.

Your remonstrants further represent that there are now fifty separate and distinct Protestant Episcopal church corporations or parishes in the city of New-York, (instead of the nine which existed in the year 1814,) besides the corporation and parish of Trinity Church.

Your remonstrants further represent that all the said new churches have been assisted by donations from the property and funds of

your remonstrants except two of them which never applied for such aid, that such donations or endowments have in several instances (as in those of Grace Church, St. Mark's and St. George's,) been of very large amount, and that your remonstrants have during the last forty years, also largely contributed to new churches in every part of the State, so that the income of the corporation has never been at all equal to its expenditures, the deficiency being supplied by sales of real estate and by loans.

Your remonstrants further represent, that elections in Episcopal churches are usually conducted without excitement and are almost always nearly or quite unanimous, accordingly it seldom happens that more than twenty votes (if so many) are polled, whatever may be the number of the constituency. The same remark is believed to apply to elections held in incorporated charitable and literary societies generally. That in the corporate elections of Trinity church, when there is no contest, the number of votes is generally small. That no inference can fairly be drawn from the neglect of corporators to exercise their right of voting; except that they are entirely satisfied with the management of the corporate body to which they belong; that there is no obstacle in the way of persons being admitted corporators of that church, the sole conditions being, that they shall duly attend the services of the church, and hold a pew or partake of the holy communion in said church, or own a pew therein or hire it from the church; and that all or any of the petitioners for the repeal of this act, could have become, and still can become members of the corporation, by complying with these conditions, which are not only reasonable in themselves, but consistent with the usage and practice of all religious societies of every denomination of Christians throughout the State.

Your remonstrants further represent that the said act of 1814 was passed at a time when harmony had just been restored in the parish after a long and exciting personal controversy, and was intended to preserve order and harmony in a numerous religious communion. This, it has happily effected and maintained, for more than two generations.

Your remonstrants further submit, that the question of the propriety of the act of 1814, has been three times considered in the Legislature: first, at the time of its passage; second, in 1846, by the Senate; and third, in 1847, by the Assembly. Persons not members of the congregation of Trinity Church, but members of other church corporations, claiming to be corporators of your memorialists, have never sought to establish their claims by the decision of a court of justice. No obstacle prevented their doing so, either before or after the passage of the act of 1814. If that act was unconstitutional, as it is urged, it interposed no obstacle at any time. It was simply void. But it was impracticable for your memorialists to test the question in any such mode. All they could do was to reject the votes of such persons when offered. It rested with the claimants, and with them alone, to bring the matter to the attention of the courts. And should the Legislature pass an act in its terms purporting to repeal, alter or amend the law of 1814, above referred to, then, your memorialists, insisting as they would, that the law of 1814 forms a part of their charter, and cannot be repealed, altered or amended, without their consent, the question of the constitutionality of that law, and the further question, whether it has not been substantially acquiesced in by all persons interested, must still remain to be determined by the courts. The same points of dispute which now exist would still continue, and the further one be added, as to the right of the Legislature to interpose in the mode suggested.

Your remonstrants humbly submit, that after these repeated decisions by the Legislature, and the acknowledged neglect of the parties complaining to assert their alleged rights in a court of justice, the law of 1814 above referred to ought to be left undisturbed until those who complain of it shall establish its unconstitutionality in the courts, the only proper tribunals for the decision of such questions. And that the undisturbed possession of your memorialists under that law for forty-three years, of the corporate rights, franchises and property it professed to give or to confirm, ought on the strongest grounds of public policy, to have the same operation in perfecting the title of your remon-

strants and securing them against hostile claims, which a like possession for less than half that period, has on any other private right or property, however acquired. They submit that the public confidence in the stability and security of all property and private right will be seriously shaken, should the Legislature repeal or interfere with a grant of corporate franchises, after a lapse of nearly half a century, for the express purpose of enabling parties to revive and re-open a question, which if it ever existed except in name, has been long since disposed of.

Your remontrants further state that the pewholders and communicants in the churches of their communion in this city who would or might be qualified to vote for parochial officers of Trinity Church under the proposed act, are many thousands in number, and may become much larger in the ordinary state of things. But, moreover, whenever (as might frequently be the case) motives or hopes of pecuniary profit were presented, this number would be swelled by a host of others, excited by the expectation of gain, who without any sympathy of opinion or of feeling with the Episcopal or any other religious body, could be constituted nominal Episcopalians and legal voters at an easy rate. Thus, considering the various doctrinal differences, temporal interests and selfish aims that may exist among so large a number, the facility with which that constituency may be increased for personal purposes in times of partizan excitement, the certainty that such excitement would be of frequent recurrence, if not invariable, at every election where an endowment so greatly exaggerated and over-estimated by public opinion, would be the prize of the contest, this act if carried into operation would inevitably fill not only the parish of your remonstrants, but every other parish in the city, with discord, confusion and personal animosities.

Your remonstrants, in referring to the fact, that while the administration of this corporation has been assailed on almost every other point, no imputation nor even insinuation has ever been made, that either the present or any former vestry, or any of their members, have ever been influenced in the discharge of

their duties, by any corrupt motive or by considerations of personal interest, may perhaps, without indelicacy, be permitted to say, that while they regard the observance of strict personal integrity in the administration of such a trust, as a matter of such obvious and imperative duty as to call for no commendation, yet the fact that in the long history of this corporation, no instance of the violation of this duty has ever occurred or even been suggested, is not without its weight as an attestation to the utility, efficiency and security attending the working of the system as it now exists.

The proposed measure is founded on two reports made to the Senate, embodying broad and strong censure on your remonstrants' execution of their duties. Your remonstrants respectfully represent that these charges are, in their judgment, unsupported by the evidence, and they respectfully refer the Legislature of the State for the protection of your remonstrants' rights, and their fellow-citizens for the vindication of their character, to the testimony itself, whether produced for or against them. They confidently believe, that while most of the adverse testimony will be found, on examination, to be vague, matters of opinion, or hearsay on second or third hand information, on the other hand the positive testimony of those actually acquainted with all the facts of the management and application of the property will show, that the charges brought against your remonstrants are without foundation; and they appeal to such testimony with entire confidence, even though that produced against them was taken privately and exparte, your remonstrants not having been present to demand from those who gave it, further explanations or specifications of names, dates and facts. They feel confident that the examination and comparison of the whole body of testimony will prove to the Legislature, that your remonstrants have had steadily in view in the management and application of their funds, the support of the Gospel and its ministration, and the promotion of religion, morals and education, wherever their aid could be most effectual in this city and throughout the whole State. That testimony shows, that if in any instance, such application of their funds was ill-judged,

it arose not from personal or partizan motives, but from an error of judgment, incident to all human counsels, whilst in general their endeavors have been largely blessed in promoting the best interests of society.

In conclusion, your remonstrants respectfully claim that the law in relation to your remonstrants passed in 1814 and above referred to, forms a part of the charter of this corporation, granted by the State and accepted by your remonstrants, and that the same cannot be repealed, amended, modified or altered without their consent. Such consent your remonstrants are compelled by a sense of duty to withhold, and against any repeal, amendment, modification or alteration of the act in question, they pray leave hereby firmly, but most respectfully to protest.

And your remonstrants will ever pray, &c.

By order of the corporation of Trinity Church in the city of New-York.

WILLIAM BERRIAN, D. D., *Rector.*
[L. S.] WM. E. DUNSCOMB, *Comptroller.*
RICH'D H. OGDEN, *Clerk.*

Wm. E. Dunscomb, Robert Hyslop, } *Church Wardens.*

Henry Youngs,	Rich'd H. Ogden,
Alex'r Z. McDonald,	Cyrus Curtiss,
G. C. Verplanck,	George P. Cammann,
Anthony J. Bleecker,	Abel T. Anderson,
John R. Livingston,	F. Pentz,
Geo. T. Strong,	James I. Jones,
Sam'l T. Skidmore,	Jos: Delafield,
W. H. Falls,	Abraham B. Sands,
Gouv: M. Ogden,	John A. Dix,

Vestrymen.

DEBATES

ON THE

TRINITY CHURCH BILL,

IN THE

SENATE OF THE STATE OF NEW YORK.

REPORTED BY DOUGLAS A. LEVIEN.

ALBANY:
J. MUNSELL, 78 STATE STREET.
1857.

LEGISLATIVE DEBATES

ON THE

AFFAIRS OF TRINITY CHURCH.

IN SENATE....March 25, 1857.

Immediately after Executive Session, the President announced the Special Order, being the bill to amend the act of 1814, relating to Trinity Church.

Mr. Brooks said :—

Mr. President : Before the Senate go into Committee of the Whole, I shall beg leave to offer a substitute for the Bill reported by the Select Committee. It does not emanate from myself, but from one for whom I entertain the highest respect; from one of the most eminent rectors in the city of New York, who officiates himself over six hundred communicants. The substitute proposes, if possible in the form of statute, a reconcilement of the differences of opinion unfortunately existing between the Episcopalians belonging to the different Churches in the city. If any good should come from such a recommendation, and it should result in a peaceful solution of long existing and growing difficulties, it will be a subject of general congratulation among a large portion of the Christian community.

In presenting this bill, I desire to say that I do not commit myself for or against its provisions. If it should become the basis of reconciliation, I shall be most happy in having in any manner contributed to so desirable a result. The character of the author, and the great importance of the subject under consideration prompt me to offer it at this time, and to ask that it may be printed.

Mr. Noxon :—*Mr. President :*—I call for the reading of the bill at this time.

The bill was then read. It provides as follows :—

§ 1 In addition to the persons entitled to vote at the elections of Church Wardens and Vestrymen of Trinity Church in New York, under the second section of the act entitled "an act to alter the name of the corporation of Trinity Church in New York, and for other purposes," passed January 25, 1814, the inhabitants of the city of New York, in communion with any other of the P. E. Churches in the said city, now or hereafter in union with the Convention of the Diocese of New York, shall hereafter be entitled to participate in such election to the extent and in the manner following :—

The Vestry of every such Church shall yearly on or before the 1st of March, select five members from their body by the written act of a majority of their number; which act shall be duly certified by the Rector or Clerk of said Vestry.

The five persons so to be selected, shall each be entitled to vote at the annual election then next ensuing, for Church Wardens and Vestrymen of Trinity Church aforesaid; but no one shall be eligible except a pew holder or communicant of full age in said Trinity Church or one of its chapels.

§ 2 The corporation of Trinity Church aforesaid, shall apply all its annual income and the proceeds of the sale of any of its property, to the payment, first, of the interest on its debt; and next, to the extinguishment of such portion of the principal as its vestry may deem expedient; and after duly providing for the proper support of its parish, the Vestry shall apply the remaining income and proceeds of the sale of its property to the support and extension of religion in the P. E. Church in the city and State of New York.

§ 3. The said corporation shall yearly, on or before the 1st of February, furnish to each of the P. E. Churches in said city, in union with the Diocese of New York, a list of the pew holders and communicants eligible as Church Wardens, and Vestrymen as aforesaid; and also a full account of its receipts and expenditures during the year next preceding.

Mr. Brooks :—Mr. President, I merely wish to remark again that this bill emanates from a source highly conservative in its character, and seeks to reconcile the differences at present so unhappily existing. If the measure, during the progress of the discussion, should meet the views of the Senate, and form the basis of conciliation, I shall be glad that I have introduced it. If it be a source for further differences of opinion, I shall deem it my duty to withdraw it. If it should not meet the views of the Senate, and we should be called upon to consider the Committee's bill, irrespective of this substitute, I shall then deem it my duty to offer some amendments.

The first will be to protect Trinity Church, and her three Chapels, St. Charles, St. Pauls and St. Johns, on the face of the bill, in all their possessions of Church edifices, burial grounds, adjacent lands and Church property of all kinds and conditions. The second will be, to see that such ample provisions are made as will secure the proper acknowledgment of all debts and obligations incurred by Trinity Corporation, and to secure their eventual payment.

It is probable that I shall also propose a third amendment designed to meet the objection which has sprung up from several sources, that it will be morally and physically impossible to vote upon the affairs of Trinity in the manner provided in the bill, by making provisions that the votes shall be vested in a certain number of Vestrymen or Wardens, in some manner to be hereafter determined upon.

Mr. Upham: Is it the desire of the Senator that his substitute shall be printed before any action is taken on the bill now before the Senate?

Mr. Brooks: No. I do not wish that it should occasion any delay in the action of the Senate. hope other bussiness may be set aside until this matter is disposed of, and if it meets the views of all parties, I, for one, am ready to discuss it at once.

The Senate then went into committee of the whole on the bill reported by the special committee, and the same was read through.

Mr. Noxon moved to strike out the enacting clause for the purpose of opening the debate. He said:

It is well known, Mr. Chairman, that at the last session of the legislature, a committee was appointed on the part of the Senate, to take certain testimony in matters relating to Trinity Church, by way of filling up a gap which had been left by that Church, unanswered, in certain resolutions which were proposed by the Senate of 1855, calling upon the corporation of Trinity to make answers to certain questions then propounded. The resolution to which I allude will be found in the report of the Committee of January 29, 1857.

The Committee proceeded to the City of New York some months prior to the meeting of the Legislature. It notified the proper parties connected wite the Church, that the Committee was in session. The notice was served on the officers of the Corporation. As one of the Committee having that matter in charge, I had hoped that the Corporation of Trinity Church would see fit to come before the Committee and to make such statements of facts as would enable us to properly discharge our duty. But we were disappointed, not only in hearing from Trinity Church in person, but also in finding that some member of the Vestry refused to testify before the Committee on the grounds, as stated by by him, that there was a controversy going on between the Corporation and the Committee, and that it was not proper for him to answer questions put to him by the latter. Your Committee, having no power in the matter, could not compel this man to testify; but Lought to say in justice to him and to Trinity, that he has since consented to come before the Committee and give his testimony.

It is proper here to state, Mr. Chairman, that I look upon all matters regarding the law now proposed to be repealed, as not affected by the great mass of testimony presented to the Senate; but as involving more properly a simple question of law. I do not look upon that testimony in any paarticular, as bearing on the real question now before this committee. It has regard only to the manner of executing certain powers conferred on the corporations by grants, and by laws of the State of New York; but I cannot think that it has much to do with the principles involved in the present discussion. I ought at least to state how the committee viewed it; and what the law—the original law—as we have looked upon it, had in contemplation when it vested certain property in Trinity Church; and I shall refer to the report by way of giving a history of a matter which is now one of the most exciting questions that has for some time agitated the city of New York, or, indeed, the country at large.

In the original charter of 1697, all the right Trinity church had to the chapel and grounds adjoining, will be found set forth in the extract from that charter, on page 3 of the special committee's report. It is declared therein—"That the aforesaid church, [meaning the church erected previous to 1697, on the site upon which Trinity church is erected] erected and built as aforesaid, and situate in or near the street called the Broadway, within our said city of New York, and the ground thereunto adjoining, inclosed and used for a cemetery or church-yard, shall be the parish church and church-yard of the parish of Trinity church, within our said city of New York; and the same is hereby declared to be forever separated and dedicated to the service of God, and to be applied therein"—and I call now the especial attention of the Senate to the precise language employed—"to the use and behalf of the inhabitants from time to time inhabiting and to inhabit within our said city of New York, in communion of our said Protestant Church of England, as now established by our laws, and to no other use use or purpose whatsoever."

And it is further declared in the same charter that the royal will and pleasure is to make and create, and the Rector of said parish, "together with all the inhabitants from time to time inhabiting and to inhabit in our said city of New York, and in communion of our aforesaid Protestant Church of England, as now established by our laws, are created a body corporate, &c," and then followed the name of the corporation created, which is in these words: 'We have ordained, constituted, and declared by these presents, for us, our heirs and successors, do ordain, constitute, and declare, that he (Lord Bishop of London) and his successors, and all such of our loving subjects as now are or hereafter shall be admitted into the communion of the aforesaid Protestant Church of England, as now established by our

laws, shall be from time to time, and forever hereafter, a body corporate and politique, in fact and name, by the name of the Rector and inhabitants of our said city of New York, in communion of our Protestant Church of England, as now established by our laws."

So it will be perceived, when we start off with the original charter, that it grants the chapel and grounds for the use and behalf of the inhabitants of the city in communion of the Protestant church of England, as then established by law. It is further declared in the same charter, that to manage the affairs and corporation there shall be annually elected two Church Wardens and twenty Vestrymen, *"by the majority of votes of the inhabitants of the said parish in communion as aforesaid,"*—that is with the Protestant Church of England as then established by law.

These are all the provisions to which it is necessary to call the attention of the Committee, in order to show the nature of the original grant, and the persons who were entitled to vote under it.

When we come to the next legislation in regard to the corporation, we find that in 1704 the colonial legislature confirmed the grant of 1697, by an act granting sundry privileges and powers to the Rector and inhabitants of the city of New York, of the communion of the Church of England, as by law established. In the first section of the act, it is declared that "the Rector, &c.," "and their successors," be able to sue, &c., (here enumerating the powers of the corporation), and by section 6 of said act, it is enacted "that it shall and may be lawful for the inhabitants aforesaid to assemble and meet together on Tuesday, in Easter week, annually, at the said church, to choose two church wardens and twenty vestrymen, communicants of the said church, to serve and officiate for the next ensuing year, by the majority of the voice of the said communicants so met, and not otherwise."

In 1705, the grant of Queen Ann is given to this corporation, thus consisting of the Rector and inhabitants of the church of England, by which the former grant is ratified and perpetuated. After the original grant, the act says—

Mr. Wadsworth—From what is the Senator reading?

Mr. Noxon—From Queen Anne's grant, by which the original grant is confirmed. It says: 'Know ye by our special grace," &c. "We have given, granted, ratified and confirmed, in and by these presents, for ourselves, heirs and successers, we do give, grant, ratify and confirm, unto the said rector and inhabitants of the city of New York, in communion of the church of England, as by law established, and their successors, all and singular, the said farm," &c., 'to have and to hold said farm, the several leases, &c., unto the said Rector and inhabitants of the city of New York, in communion with the church of England, as by law established, and their successors forever."

No further legislation was had in regard to the corporation until after the revolution. In 1784 an act was passed making such alterations in the charter of the corporation of Trinity Church as to render it more conformable to the constitution of the state. In the third section of that act it is enacted as follows:

III. *Be it further enacted by the authority aforesaid*, That all persons professing themselves members of the Episcopal Church, who shall either hold, occupy, or enjoy a pew or seat in the said church, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the holy sacrament of the Lord's Supper, at least once in every year, being inhabitants of the city and county of New York, shall be entitled to all the rights, privileges, benefits and emoluments, which in and by the said charter and law first above mentioned, are designed to be secured to the inhabitants of the city of New York in communion of the Church of England.

And preceding this third section is a preamble in the following language: And whereas doubts have arisen on these parts of the said charter and law first mentioned, which speaks of inhabitants in communion of the said church of England; for removal, &c.

These doubts here alluded to, are as to that part of the charter which speaks of the people "in communion of the church of England," to whom were granted the rights and privileges of the original charter. It will be perceived that now, for the first time, we hear the Protestant Episcopal church mentioned instead of the church of England; a change made necessary by the revolution. So that under this act, the only change made, is that it gives the same powers to persons in communion of the Protestant Episcopal church, which were formerly conferred on those in communion of the church of England. It adds also one other class to those entitled to vote—those who are pew holders in the church and pay regularly towards its support.

In 1788—four years afterwards—an act was passed which authorized the Corporation to take and use the name of "The Rector and Inhabitants of the City of New York, in communion of the Protestant Episcopal Church in the State of New York," and confirmed all grants, deeds, and conveyances made to them under their former name. No other alteration was made in the act of 1788 at all material to this matter.

We have no further legislation in respect to the Corporation, from 1788 until the act of 1814; and I beg to call the particular attention of the Senate to the words of certain sections of that act. By the first section, the title of the corporation is altered; and it is provided that "from and after the passage of this act, the said corporation of Trinity Church, instead of their present name, shall take and use the name of 'The Rector, Church Wardens, and Vestrymen of Trinity Church, in the City of New York.'"

By section two of the same act, it is provided "that all male persons of full age, who, for the space of one year preceding any election, shall have been members of the congregation of Trinity church aforesaid, or any of the chapels belonging to the same, and forming part of the same religious corporation, and who shall hold,

occupy, or enjoy a pew or seat in Trinity church, or in any of the said chapels, or have partaken of the holy communion therein within the said year, and no other persons, shall be entitled to vote at the annual elections for the church-wardens and vestrymen of the said corporation."

Now, it will be perceived by the Committee, that if under the original grant of 1697, and under the Colonial act of 1704, and the act of the legislature of the State in 1784, the inhabitants of the city of New York, in communion of the Church of England, or of the Protestant Episcopal Church of the United States, had a right to vote on matters relating to the corporation of Trinity Church; then the act of 1814 struck down that right and took it away from them.—Under the act of 1814 it will be seen that all grants given to communicants in other P. E. Churches not immediately attached to Trinity, were annihilated; that if there is any such thing as a vested right on the part of the inhabitants of New York in communion of the P. E. Church, the object and effect of section 2 of the act of 1814 was to strike down their privileges, given under the Colonial acts and the acts of the legislature of the State.

The special committee, believing that the original intent of all the acts up to 1814 was to vest in the Protestant Episcopal people of N. Y. the right to vote for vestrymen in Trinity Church, have introduced a bill to restore to them those rights. By section two of the act now under consideration, we do restore to them those rights while we take away not one privilege ever granted to the church. We are but asking those members who now control the affairs of the corporation, to allow those who were corporators with them up to 1814, to share those privileges they both then enjoyed in common.

It may be urged that prior to the act of 1814, the parties for whose rights we now contend, did not discharge those duties or avail themselves of those privileges. But this is not a matter for us to consider. The only question which should guide us here, is whether they really possessed the rights stripped from them in 1814. As a purely legal question, I put it to the Senate to say whether that act of 1814 was not distinctly opposed to the spirit and letter of the original grants.

I am not here at this time, Mr. Chairman, to charge Trinity Church with having come to this Capitol to get that act through the legislature from grasping and improper motives. She may have had the purest intentions for aught I care at the present time, in securing that law; but the question is, what are we to say and to do now that the subject is presented to us.

The Senate knows, and I know the difficulties this legislature has experienced in investigating this matter. The first thing we did, when the abuses of the corporation were brought to our notice, was to simply press her with resolutions designed to elicit the facts in the case. But they were useless, for she defied us. Trinity Church haughtily defied the State of New York. She was a corporation, with grants with which we could not interfere. She had vested rights which was out of our power to touch. No legislature, she said, could call her to account for the manner in which she discharged the duties conferred upon her in her grants and laws. Sir, I believe that these corporations are only the creations of law, and that they are all bound to report to us their acts and to abide by our decisions.

But Trinity Church does not stop here. Not only does she deny the right of the Legislature to interfere in any manner with her affairs; but when deeming it prudent to report, how does she do so? She reports by spreading out on your tables no names of her corporators, and when taxed with the omission, says she did not suppose you needed them. Why, did not the Senate understand what they wanted? Is Trinity Church to come here and say to the Senate that she did not understand herself nor know what she required? Sir, I accord more justice and more intelligence to the Senate than to suppose they adopted resolutions calling for certain information without understanding what they were about. But although Trinity Church would not then allow us to have the names of her corporators, she finally does so. She yields inch by inch—protesting at every step—until finally what do we find her doing? Why she comes to us at last, not insolent and protesting, but begging—humbly begging—and petitioning the Legislature of the State of New York to let her alone, and not to take away her powers. I ask Senators to look at the flood of remonstrances and petitions from all parts of the State that have been poured into this Chamber. They come from the same power that would not only control the Legislature, but is controlling with iron and despotic will, all the churches in the State of New York belonging to the same denomination.

And yet this is called a *Religious* Corporation. God save the word! A *religious* corporation? why it has not the least *scintilla* of spiritual feeling. It grovels among the things of this earth—among matters with which a purely religious corporation could have no connection or sympathy. Its affairs are managed and its duties performed by standing committees, responsible to no one.

There has been a good deal of feeling manifested in this matter of Trinity Church, but it has been occasioned by persons interested in getting up such feeling. In order to carry out their plans, it seems the Senate is first to be attacked, and then the Special Committee. What are the charges made against the Committee? We are accused of having spread false things before the public. Well, it is for the Senate to say whether the facts we set forth are not fully justified by the evidence.

Mr. Spencer—Will the Senator give way? It is now past the usual hour for adjournment and I desire to move that the committee rise and report progress.

Mr. Noxon yielded the floor for the motion and the committee rose and Senate adjourned.

IN SENATE.....Thursday, 1 P. M.

The Senate resumed the consideration of the Trinity Church Bill, Mr. Darling in the Chair.

Mr. Noxon said:—

Mr. Chairman: In addressing the Committee upon this bill, I desire to briefly recapitulate the points I have taken in support of the Bill, in order that the Committee may bear in view and have in their minds the true question before the Committee. The statement I first made was that the title of the corporation, created by the grant from the English Crown in 1697, was, "The Rector and Inhabitants of our said City of New York, in Communion of our Protestant Church of England, as now established by our laws.' 2d—That under that grant, the Church and Church yard were "forever separated and dedicated to the service of God, and to be applied therein, to the use and behalf of the inhabitants from time to time inhabiting, and to inhabit within our said City of New York, in communion of our said Protestant Church of England, as now established by our laws, and to no other use or purpose whatsoever." Third—That for managing the business of the corporation, there were annually elected two Church Wardens and twenty Vestrymen, "by the majority of votes of the inhabitants of the said Parish, in communion as aforesaid." Fourth—That in 1704 this grant was confirmed by the Colonial Act which conferred "sundry privileges and powers on the Rector and Inhabitants of the city of New York, of the communion of the Church of England, as by law established." Fifth—That the estate known as the Queen's Farm, was granted in 1705 by Queen Anne, unto, "The said Rector and inhabitants of the city of New York, in communion of the Church of England, as by law established, and their successors all and singular." Sixth—That in 1784 an act was passed to make the charter of the corporation of Trinity more conformable to the Constitution of the State; and that section 3 of that act, to clear up doubts which had arisen on those points of the original charter which spoke of inhabitants in communion of the Church of England, declared that members of the Episcopal Church, who were communicants or held pews in the Church and paid regularly towards its support, should have the right to vote. Seventh—That in 1788 the title of the Corporation was changed to "The Rector and Inhabitants of the City of New York, in communion of the Protestant Episcopal Church in the State of New York." Eighth—That in 1814, all the corporators who were not communicants of Trinity or her parishes, were cut off from the rights and privileges enjoyed by them, under the original charter and subsequent acts.

Perhaps I ought to say, before leaving this branch of the case, which treats of the rights of Trinity Church as now claimed, and under the acts and grants of the Crown and of the Colonial and our own State legislatures; perhaps I ought to say something with regard to the manner in which the passage of the act of 1814 was procured, and what led to its adoption. There can be no question that so far as the Protestant Episcopal people of the city of New York were concerned, there were a great number who had rights secured to them under the original charter, who were opposed to the act. I ought to say that the act of 1814 never really received the sanction of the Council of Revision. There was a division in the Council on that question; and it was necessary in order that the act of 1814 might become a law, that it should pass the Council of Revision. The Council at that time consisted of D. D. Thompkins, Gov., Chancellors Lansing and Kent, William W. Van Ness, Ambrose Spencer and Robert Yates. Perhaps not from that time to the present, has there been a more distinguished and abler set of jurists assembled together, than the distinguished men who composed that Council of Revision. When the question came up, there was but one of the Council of Revision, who finally voted upon it, who favored the act of 1814. Chancellor Lansing himself long entertained objections to the bill; and unless he had passed over and voted on the other side, it never would have become a law. Kent, Lansing, Spencer, Yates—every one of those distinguished men, then the brightest luminaries of the State—every one of them originally opposed the act of 1814. I may add that from the testimony it appears that one of those men—Chancellor Kent—known and distinguished not here alone, but throughout the world, after voting for the bill, pronounced it as his opinion that the law was unconstitutional. I speak of Chancellor James Kent.

Now it is clear that as the matter stood, the act of 1814 is not, as if contended, conceded on all hands to be right. There were rights to be affected by that act; but the fact is, those interested in the original grants, placed great reliance, not only in the Judge of the Council of Revision, but in Judge Troup, the leading Vestryman of the church, who promised that the government and management of the affairs of the church, under the law of 1814, should be the same as it had been prior to its passage. They then fell in with his views, and allowed the law to pass. I do not believe there can be any question but that the mind of Chancellor Lansing was influenced by Judge Troup, as to the rights affected by the bill of 1814, and the management proposed after it should become a law.

I have now said as much as is necessary respecting the questions of law. I will now proceed to examine the evidence given before your Committee.

It will be recollected that by the resolution which passed the Senate in 1853, Trinity church was called on to set forth the value of her real estate. Well, it is well know how Trinity church reported. Whether the corporation in their answer to the resolution of the Senate were actuated by high and noble principles it is not for me to say; but I must revert to it in order that the Senate may understand what the value is.

The reply of the Church was grounded upon the valuation of the assessors and not upon the value she herself puts upon the property. And what is that valuation? about $1,500,000.—Your committee in prosecuting the labors you had assigned to them, and in taking testimony for that purpose, proceeded differently. They called witnesses who knew the property, to prove the value of the real estate owned by the corporation, and the proof thus elicited is submitted to the Senate. I would refer Senators to the report to show them that the actual value of the property upon which this valuation of a million and a half was put, exclusive of buildings, amounts to nearly six millions of dollars.

Mr. Wadsworth—Will the Senator tell us what incumbrances there are upon that property?

Mr. Noxon—It has no incumbrances that are worth speaking of. The mortgages and securities the church possesses outside this real estate, leaves her in the judgment of your committee with property in her hands worth at least $10,000,000. I ought, in justice to the appraisers to say, that one of them, a responsible person stated he would take every dollar of the property at its valuation—six or seven millions—and pay cash for it.

I now desire to call the attention of the committee to the valuation of some portions of the property by the corporation and by the special committee; and I do this in order that the committee may understand whether or not there was a design on the part of the corporation of Trinity church to make any concealment in the matter of their property, without myself charging such design directly upon them. And first, I refer Senators to page 8 of the report of the select committee made in 1855; in which they will find that the corporation estimates the value of No. 251 Broadway, at $12,081.56. It is estimated by one appraiser at $100,000, and by another at115,000. I also refer you to the valuation by the corporation, on page 9 of the first report, of the lots Nos. 136, 138, 140, and 142 Chambers street—which I believe is the depot of the Hudson River railroad—which valuation is $28,827.40. And what is the proof on this point? Why, the proof is, that when the committee come to value this property, they find the fact to be that Trinity church leases the same lots at a ground rent of $5,000. This she herself fixes to be at the rate of 5 per cent. on the value; thus making the valuation of the property, by her own estimate, one hundred thousand dollars.

I ought to say here that this negotiation, by which Trinity church fixed the valuation of the Chambers street property at $100,000, was made about two months before the report which they submitted to the Senate.

I call the attention also to the report where this corporation values the lot 275 Greenwich st. at $6,840.60, a lot which by actual sale a few days previous to the report, was sold for the sum of $20,000.

Again, no mention whatever is made by Trinity Church of the St. John's square property.—It was a matter of too little consequence to report the valuation which the church put upon the square; and yet it is estimated by Trinity herself, in a negotiation for its sale, at the modest sum of *four hundred thousand dollars!*

But these discrepancies in the valuations are all explained and excused by Trinity in a few words, when she says "why, in our report we took the *assessors'* valuation."

I would next call the attention of the committee to another branch of the case—that relating to the corporators. We have now some information respecting them. Although in reply to the original resolutions of the Senate, we could only get the number of the corporators, and not the names; the committee, in taking testimony, did through the reports sent to them on behalf of Trinity Church, find what were the names of communicants in the church, and of the pew holders, and the total number entitled to vote as corporators. And I may here say that we have had placed upon the files of the Senate, since our last report, memorials impugning in a measure the action of the committee in regard to the report she made relative to the list of corporators. These memorials set forth the charge that the committee have drawn conclusions not warranted by the testimony. A protest was then placed upon our files against the committee, asserting that they have made charges against the corporation not borne out by the evidence. Now, what was the statement of the committee on this point? Simply that it had been a most difficult matter for several years, even to get a sight at the list of corporators. I beg to call the attention of the committee to some points in the reported evidence; and I will ask them, after looking at the testimony, to say whether we were right in that assertion; or whether Trinity Church is right in charging that we are dragging her before the Senate to place her in a false position.

I say that for eighteen years—eighteen long years—one of her own clergymen, who ministered at her own altar, was not allowed to look into the list of Corporators of that Church. I refer the Senate to page 83 of the first report. Dr. Higbee swears that he has been an Assistant Minister in Trinity Church for 18 years and says: "I have never been able to see a list of the corporators of Trinity Church. Dr. Wainwright and myself have made several efforts to obtain such a list unsuccessfully. Dr. Wainwright after being made bishop, told me he did receive such a list." In examining the Comptroller of the Church, in New York city, some questions came up, suggested by the replies of the Comptroller, as to the list of corporators. The question was put to him, "Have you a list of the voters in your possession?" To which he answered, "One of the lists was lost and afterwards found, and the number but not the names was added to our report. I presume their names are in the office; if the committee of the vestry authorize me to furnish such list I will do so."

Why, is it not strange that the Comptroller of such a corporation as this, testifying before a

committee of the Senate, should affect so little knowledge of the affairs of his own church? Is it not strange that when questioned as to the list of corporators, he should fall back upon the "Committee of the Vestry," and say—"if the Committee of the Vestry authorize me to furnish such a list, I will do so."

At page 64, in assigning a reason why the names of the corporators were not given in the report, the Comptroller in a communication addressed to the committee states it to be—"because the Vestry were not aware that the liberty to inspect a list of such names had ever been refused to any corporator." The Senators will pay particular attention to these words. I now desire to call the attentton of the committee to the testimony of the Rector on page 55, of the second report. It will be borne in mind that the language used by the Comptroller is that he was not aware that the liberty of inspecting the names had ever been refused to any of the corporators. Was he not aware that Bishop Wainwright had tried for years to get a list of the corporators, in vain? Was he not aware that the venerable Rector himself had refused to show Bishop Wainwright such list? I will now proceed to read the testimony of Dr. Berrian, as to the difficulty of obtaining a sight of the names of the corporators:—

Q. You speak of a resolution having passed the vestry, in relation to allowing Bishop Wainright to take a copy of a list of corporators.—What called for this action on the part of the vestry? A. The reason was the bishop wrote to me requesting the list from me. I replied that I had no power myself to lend the book, though he had the right to examine it.

Q. When was it? A. I think it was in 1853, shortly after he became bishop.

Q. Had he applied for it previously without success? A. I understood that he applied to a clerk in the vestry office, who declined as I did because he had not the power to do it,

So then we find the Bishop asking not only the Rector, but a clerk in the Vestry office—trying in some manner or other to get a list of the corporators. But to continue:

Q. Did he ask to see it? A. I do not know; I presume he did. I think he asked me to see it

Q. Did you show it to him? A. I think not.

Q. Why not? A. I have not the custody of the book. It is not in my office or custody.

I ask the committee to pay particular attention to the language here used by the Reverend Doctor, and to see whether he is not attempttng to be a *little* scholastic over this matter, and endeavoring to select his words somewhat carefully. But we come to the next question:

Q. Who had it? A. At that particular time it was with me.

I suppose by the way the answer is given, the Rev. Doctor sought to avail himself of a special plea, as some lawyers are apt to do.—Although the book was with him in fact, yet in the eye of the law it was not with him. I now call attention to the language used, after it has been admitted that the book was in his hands:

Q. Why did you not show it to him? A. I had it for the purpose of entering the names of new communicants, and the changes by death and removal.

Q. Did that prevent your showing it to him? A. I had no control in the matter. I looked upon the book as belonging to the comptroller and not to me.

Well, we might stop right here and ask, who is the head of the corporation of Trinity church? The comptroller, who is simply the agent of the corporation; or the Reverend Rector? The Rector seems certainly to have an idea that he has no power over whatever is in the possession of the comptroller or any other officer. The evidence continues:

Q. What are your powers, if any, over the books of the corporation? A. I have the sole custody of the parish register, containing the records of baptisms, marriages and burials; and those are the only books over which I have any control, though they are all open to my examination.

Q. Do you know of anything in the act of incorporation, or rules of the vestry, to prevent your showing the book to any person who applies to see it? A. I do not.

Q. Then, I again ask, why you did not show it to him? A. Because I thought it was the proper business of the comptroller to let him see it

Now, then, they come here with their memorials crowding the files of the Senate, and say that your Committee have eggregiously erred in saying that there was ever any difficulty in obtaining a list of the corporators of Trinity Church!

I cite now—without particular reference to it—the testimony of John De Wolf, for many years Vestryman of Trinity Church, and who testifies that he never saw the list, although ten years a Vestryman. And yet they say that the reason they do not produce the names of their corporators is because they supposed that any person applying, could at any time have obtained the list!

But this is not all. Perhaps the richest thing of the whole, is the statement they make as to *the ninety-two* corporators that are communicants of Trinity church, and all her parishes, and the *two hundred* pew holders; making in all about three hundred to administer the vast funds of the corporation. May I not stop here and ask, if Trinity church has in one hundred and sixty years added to her communicants *ninety-two* persons; if she has done thus much for the cause of the Episcopal church, what may we expect that she will come to in one hundred and sixty years more!

But when she makes this report to the Senate and spreads out before us her ninety-two corporators, and her two hundred pew holders, even then she does not tell the truth; because we have evidence to show that not over 150 of the 300 returned here, are now at the present time, Communicants or pew holders in the Church. I desire to present to the Committee a better evidence bearing on this question, and shall refer

them to the report for that purpose. The lis containing the names will be found on page 68, in a schedule annexed to a communication from the Comptroller to your Committe, by which he makes an exhibit of the corporators who are not pew holders. The number is 92. On the next page, 69, the whole number of corporators as pew holders, is made 221. So there are in all, as stated in these schedules, 313 corporators of Trinity Church. Now I have before me evidence to show that from the 92 names sent into the Senate of the State of New York as being corporators, communicants of that Church, the following should be deducted:

Two are dead—

Mr. Brooks—Will the Senator state whether they were dead at the time the report was made?

Mr. Noxon—Well, one has died since the report—the other was dead at the time.

Twenty-two have no directory address.

Seven have removed from the city.

Four have gone over to other churches.

Nine are Rectors, Clergymen, &c., and ten are Vestrymen.

This makes a total of 54.

But from these we should perhaps deduct the Vestrymen, Rector, Clergymen, &c., nnmbering 19. This would leave of the corporators of Trinity Church who are communicants, 57.

This is all. The corporation of Trinity Church presents here through its officers a list of the corporators, and the facts show that its 92 dwindled down to 57.

But let us go a little further. We will not stop at the corporators who are communicants, we go on to the corporators who are pew holders. The Senators will recollect that at page 69, the number of these is put down at 221. Of these, 18 are supposed to be dead—at least they cannot be found, nor are their names in the Directory. Forty-two have removed from the city of New York. It may, indeed, be said, that although dead or removed, these pew-holders had the right to transmit their vote as corporators. Forty-five are known to be dead.

Mr. Brooks: Will the Senator allow me to ask him if at the time the report was made, 42 of the pew-holders were absentees from the city?

Mr. Noxon:—Yes, sir, and I will add that 49 had removed to other congregations; 15 were Vestrymen, Sexton, Clerk &c., and 2 are not Episcopalians. Now there may be some power or other transmitted by the dead and the absent by which to enable the corporation to swell up the number to 221. But the total number not to be found among these pew holders—including one duplicate name—is 168. If we deduct from this the 15 Vestrymen of the church, Sexton, &c., it will leave 68 as the actual number of pew holders. So that the whole number of corporators in Trinity church in New York city, is actually 57 communicants, and 68 pew holders: making a total 125.

Mr. Noxon at this point gave way for a motion to rise and report progress, and the Senate adjourned.

IN SENATE.....March 27, 12½ M.

The Senate in Committee of the Whole, resumed the consideration of the Trinity Church bill.

Mr. Madden said—Mr. Chairman: I do not see why the Senate should take up all the time she has at this stage of the session in debating this bill; and for the sake of taking up the third reading of bills, I move that the Committee now rise and report progress.

The motion was lost—ayes 7—nays 12.

Mr. Noxon then concluded his remarks. He said: Mr. Chairman; while addressing the Senate yesterday, and at the time the Committee reported progress on this bill, I was making some remarks in regard to the corporators, and I was showing that in the report made by Trinity Church to the Legislature of the State of New York, the number of corporators as communionists, was set down at 92, and the number as pew holders at 200, making 300 in all who were represented on the part of the corporators as entitled to vote in the election of Wardens and Vestrymen in that church. I also said the representations made by that corporation to the Legislature of the State of N. York were untrue; for that instead of there being that number of corporators, there was but 57 of the one class and 68 of the other, making the total number 125.

I now call the attention of the Committee to another branch, and perhaps a more interesting branch, of this case in connection with Trinity Church. It is claimed on the part of the persons who have been deprived of the rights secured to them under the original charter and the laws of the State of New York, that the trust entrusted to this corporation under the charter and laws, is administered to them on party grounds; and that in addition to the administration of the fund on party grounds, the aid they render to the churches of New York, and to those in the country, is rendered in such a manner as to create a dependence on the corporation of Trinity Church, on the part of those who receive such aid. This, I say, is the claim made on the part of the men who state that they are dispossessed and deprived of rights guaranteed to them in the original charter, by the law of 1814.

I beg leave to call the attention of the committee to that part of the evidence bearing on this branch of the case; and I ask them to say, from the proof, whether this corporation, in administering the fund given for the benefit of all, does so impartially and fairly, or partially and for the benefit of those only who side with Trinity. And first I call the attention of the committee to page 83 of the first report; in which the evidence of a clergyman of the Episcopal Church, who had been for 18 years a minister in the city of New York, is given. He swears before the committee that he has been acquainted with Trinity Church, and the management of her fund in a considerable degree, and says, "I do not consider the trust has been administered in such a way as best to promote the object for which it was given. Their course, in certain in-

stances, to my knowledge, has been partial. I speak of their partiality as a fact, to my certain knowledge. It is a notorious fact, that while some churches have had aid to an excessive amount, others have been entirely cut off or proscribed."

I also call the attention of the committee to page 104 of the first report, on which page will also be found the testimony of a clergyman of the Protestant Episcopal church, who holds a high position in the city of New York. I allude to the rector of Grace church, that venerable and pious man, who, speaking on the very point to which I am calling the attention of the committee, gives the following evidence:

The question is put as to whether in his opinion Trinity church is doing her utmost to make the capital of the corporation available for the founding, support, or promotion of religious, charitable, or educational institutions or purposes? The answer is, "from outward observation of their acts, I should say not."

The question is then propounded, "In what respect?" He replies,—"Because they have not multiplied churches throughout the city to any extent, in proportion to their means. The aid which they have extended to feeble churches has been done reluctantly and offensively, either by taking mortgages on the churches to which they advanced money, or by annual payments to the support of the minister; in either way increasing their power over the corporations and minister of the church to an extent which was fatal to all independence of thought or action on the part of such corporations or ministers. The tendency of this action is to enable her to exercise an overwhelming influence throughout the diocese."

I beg also to call the attention of the committee to the testimony of Dr. Anthon, at page 109 of the first report.

Dr. Anthon was an assistant minister in Trinity Church from 1831 to 1836. The question is propounded to him as to the effect which the manner of making grants and loans or aiding churches, has upon freedom of speech and freedom of action on the part of parishes and clergymen.

A. In my opinion the effect is seriously to impair their independence.

Q. In applications for aid, has Trinity church, in your opinion, favored those whose party views and actions were similar to her own?

A. Unquestionably. For instance, while the application of St. Jude's church was pending, which was ultimately refused, it is said grants were made St. Luke's, the Holy Apostles, Dr. Seabury's, and others.

I beg also to refer the committee to page 10 of the new report, and to call their attention to the testimony of Dr. Haight, who was sworn as a witness on the part of Trinity church, in the proceedings taken before the committee, and who says:

"In looking over the list of parishes whose churches have been mortgaged to Trinity Church, I find eight, the clergy and lay delegates of which, for a series of years, on all leading questions spoke and voted differently from the Rector and lay delegates of Trinity. Two of these are mortgaged for $25,000, two for $20,000, one for $5,000, the other three for smaller sums.—So, also, in regard to the churches which have received grants of land and money, or annual stipends. I find nearly thirty which have taken the same independent course in convention, without regard to the course of Trinity."

There are 130 of that class of churches alluded to by Dr. Haight, which have been mortgaged to Trinity; so that out of 130 churches, we have *eight* who have dared to raise their voices against the iron power Trinity Church would have exercised over them.

I also call the attention of the Committee to a newspaper article which has been placed in the hands of almost every member of the Senate, headed "Trinity Church.—Answer to the charges." I refer to that part of the statement which professes to give the amounts that have been appropriated by Trinity Church to the "High Churches" and "Low Churches," taking the twenty largest appropriations to the city Churches and the country Churches. In this connection, St. George's, St. Marks', Grace Church, Christ Church, St. Michael's, St. James, St. Andrew's, St. Thomas', Ascension, St. Peter's, and St. Bartholomew's are mentioned as the "Low Churches" in the city; and St. Stephens" Zion, St. Clement's, St. Luke's, All Saint's, St. Phillip's, Annunciation, Nativity, and the Church of the Redeemer, as the "High Churches."—The gifts to "Low Churches," the paper I hold in my hand says, have been $822,000. To "High Churches" $254,000. By which it would appear that Trinity Church was really doing more for the "Low Church" in the city of New York, than for the "High Church."

I now desire to call the attention of the committee to this most significant fact; a fact that stands out boldly and forcibly, and that if we were not well acquainted with the nature and character of the gifts and grants of Trinity, might blind the eyes of the committee to the facts as they in reality exist. But how is it in truth? The gift to St. George's church was made in 1812. That to St. Mark's in 1795. That to Grace church in 1804 to 1811. That to Christ church in 1805. And following down through the several gifts and grants, we find them nearly every one made prior to 1812. Since 1814, where are the gifts and grants made by Trinity to the High and Low churches of the city of New York. The only gifts bestowed upon the Low churches of the city since 1814, are those to St. Thomas, ($32,000) in 1827; to Ascension, ($15,000) in 1829 to 1835; and to St Bartholomew's, in 1839; making a total of $71,000 for all the gifts and grants since 1812, instead of $822,000. So when this error is corrected, it stands "gifts and grants to 'Low churches' since 1814, $71,000 and High churches $254,000, or more than double."

And while I am speaking of the gifts and grants by Trinity Church to the churches in the

city of New York, I cannot refrain from mentioning one case, that of the Church of St. Matthew, in the city of New York, a little church, with a debt of only $1,300, who came begging and beseeching Trinity Church to grant her aid. At that very time Trinity was pouring into the treasuries of the High Churhes her hundreds and thousands of dollars; but she allowed St. Matthew's to die, and her doors to be closed within the very sight of her own proud spires. And no excuse is offered for this. Clergyman after clergyman is called upon to give a reason why St. Matthew's was thus treated; but none is given. They say it is a very unpleasant subject to talk about, but we never get at the fact as to what there is so unpleasant about it, or why they allowed her to die at the same time that they were giving to the rich churches up town their hundreds and thousands of dollars. I have heard it whispered that it was because the pastor of the Church was not exactly the man to preside over a congregation.

I should like to know whether this can be considered a sufficient reason why the congregation of St. Matthews should see their church expire within the very sound of the music of the bells of Trinity. I should like to know whether this can be a sufficient reason why Trinity, with the wealth given for aid of all the Protestant Episcopal Churches in her possession, should allow her children to die without stretching forth a helping hand. And yet this corporation would tell us that in the distribution of the funds there is no party consideration!

Sir, this despotism of Trinity Church does not stop with the churches of New York. We have seen it exemplified here so plainly that he who runs may read, that the power of Trinity is wielded over the entire Church, and that those in the country which have received her aid are now called upon to influence the legislature in her behalf. Witness the flood of memorials that have poured in upon us. I ask what the Episcopal Churches outside of New York can know of this proceeding; what can they know of the proceedings here at the Capitol? What alarm has been sent abroad to say to them "remonstrate against this law;" a law the proposition of which not one out of a hundred of them can be acquainted with. I beg to direct the attention of the committee to these remonstrances.—It will be seen that they all come from one press —that they are stereotyped, and sent out by Trinity Church unto all the Churches of this State who have received aid from her, and who are required to remonstrate, blindfold, against the passage of this law. Here is the memorial:—

To the Honorable the Senate and House of Assembly of the State of New York.

The Remonstrance of the undersigned Members of the Protestant Episcopal Church of the United States, Inhabitonts of Whitestown in the State of New York, not belonging to the Parish of Trinity Church, New York, respectfully represents:

That your Memorialists are opposed to any repeal, alteration, or modification by the Legislature, of an Act entitled "An Act to alter the name of the Corporation of Trinity Church, and for other purposes," passed on the 25th of January 1814. They are convinced that such action by casting doubt upon the exclusive rights of the present Corporators of Trinity Church to vote at the elections for Church Wardens and Vestrymen of that Parish, which they have enjoyed and exercised, without disturbance, under that Act for forty-three years, would destroy confidence in the security of property. Your Remonstrants foresee, moreover, that the direct effect of such repeal, modification, or alteration would be very injurious to the interests of country Parishes,—and would encourage litigations dangerous to the peace of the religious community, of which your Remonstrants are members; and that if the parties promoting such litigations should succeed, the elections of Trinity Church would become scenes of disorder and unseemly contest between rival parties seeking the control and management of her estate. And your Remonstrants will ever pray, &c.

I should like to know who told Trinity Church that the Senate in its action sought to throw doubts on the rights of her corporators, I should like to know where Trinity and her corporation can find any provision in the proposed law that can cast doubts on the right of her corporators? Why, this bill seeks to make plain those rights. No person here asks that any doubts shall be thrown over these rights. We ask, that those who are corporators now should still remain corporators, and that they should go a little further and restore rights to those corporators who have been deprived of them. This the country churches do not know anything about. There could not be found one in opposition to the bill, if they knew the eggregious wrong suffered by those to whom it seeks to do justice.

They next say that injustice is intended to country parishes. How so? What injustice?—You simply open the doors, and allow those for whose use the property was set apart by grants and charters, to vote and have a choice in the selections of the Vestrymen and Wardens who are to administer that fund for their use.—But they tell us that the men who apply here for this law, are proposing matters that must be for the injury of the country churches. I can only say that I can put my hand on four of the names among the signatures on the memorial for the bill, and point you to men who have givenand are annually giving more to the country churches, than Trinity herself has ever given—And yet you would tell me that we are *injuring* the country churches! They say, too, that the law would encourage litigatian: but they do not tell how. I can hardly perceive how it would encourage litigation to allow parties to vote who are entitled to do so.

There is a common error abroad in the land, that this property and Queen's farm, are the property of Trinity church. It is the most eggregious error that ever crept into the brain of the most credulous man. Trinity church never

had any right to the property. She has not to this day any right, except what she gets under the law of 1814. To whom then does the property belong? To the corporators. And who are the corporators? Why the Rector, Wardens and Vestrymen—of what church? Not of *Trinity* church, but the Rector, Wardens and Vestrymen of the Church of England as by law established. Trinity has simply the name of the building; but the corporation that took the land *as* a corporation, had nothing whatever to do with Trinity church, as a church.

I now call attention to page 42 of the new report, which relates to another branch of this subject, as to what Trinity has done. She was called on in the original resolution of the Senate, to report what she had done by the way of endowing institutions of charity or benevolence, for her own poor. Well, it is a remarkable fact that Trinity church—the most immense religious corporation in existence within the bounds of the State—has done nothing for institutions of charity or benevolence, even for her own poor. This point is met by a question propounded to the Rector of Trinity, who replies, "This appears to me, a most remarkable statement. It has, liberally and amply endowed Trinity Charity School, which has been doing immeasurable good to her own poor, and others, from generation to generation, and which, from a munificent bequest, of which she is just about to come in possession, promises to become one of the most important institutions in the land. The testimony on this point, comes from a quarter where it was but little to have been expected, and is calculated to leave a false impression on the public mind.—Neither Trinity parish, nor Trinity corporation, have been so unmindful of their own poor, as the report of the committe would seem to imply."

In this connection, it will be seen that the Rector, in order to show that the statement that she has given nothing for such purposes, cannot be true, gives evidence of the fact that she has endowed "Trinity Charity School." I should like to know how she has endowed that school? It is now rich, and how has it become rich?—By Trinity having given it lots when they were hardly worth a song; and now by the natural rise and growth of the city, these lots, originally worth nothing, have made the Charity comparatively wealthy. But the Rev. Rector, in speaking of this very subject, as to the Institutions Trinity has endowed, says "she has got her Dorcas Societies, her Industrial Schools, her Parish Schools." I should again like to know where her endowments of these schools have come from. Her schools are most decidedly the richest speculations Trinity Church has made in her "endowments" to Institutions, to charity or benevolence. "She make annual and occasional collections," he further says, "in her parishes."

Well, I would like to know what church does *not* make these annual collections. Why, if these are to be called endowments, then the little, humble church to which I am attached, poor and in debt as she is, is making endowments. But Trinity employs "lay agents" it is said, "whose business it is to give needful assistance and council to the emigrant, on his arrival at this port; to visit the suffering poor, and ascertain their fitness for the bounty of the church, and to search out the ignorant for religious instruction."

Well, I do not know but that it is meant to claim this as an "endowment," because it pays the men it thus employs a salary of $1,600 a year. Sir, there is not in the annals of history; there cannot be found in history, any other church, with such ample means, with property large enough to endow every other church in New York, that does not raise her hands in support of her poor sister churches. When asked for aid, her reply is that she is already in debt six hundred thousand dollars. She owes this large sum, and cannot give anything away. She would like to give, but is not able. Oh, no! When the churches of the city call upon her for aid, it is a very easy matter for her to say, "we can't give, because our debt is $600,000, and that makes us poor," but she does not stop long enough to tell us how that debt was incurred. She does not tell us that churches in the city of New York—wealthy churches—have received from her hands from time to time, those immense sums of money which have taken from her treasury all she has, and that therefore she has incurred this debt.

I ought to say, and I do say here, in justice to some of the vestrymen of the church, that while some have favored the erection of those magnificent temples, others have persistently resisted such a policy; but in vain. They have brought in their estimates and bills of $60,000; and when the structures have been built, they have cost $260,000 or $270,000.

Sir, Trinity can, when it is to gratify those upon whom she can rely for support and increased strength, put her hand into her pocket, and with a princely liberality help to raise up magnificent and costly temples, carved and sculptured as by an Angel's hand; but when a cry of help comes from those from whom she can expect no power, her reply is "we should love to give, but our debt will not allow us."

And how is it with regard to the interest of that debt? How is the management of the fund carried on to-day? Why, the corporation of Trinity Church, if not shielded beneath the garb of a religious society, would every one be sent to a Mad House. Why, with a debt of $600,000, and with their whole vast property yielding them less than $100,000 a year! They say it is out on long leases. This is not true, as a matter of fact. Half of it has reverted back. They have three millions of dollars worth of property, which at 7 per cent would yield them $210,000. But they prefer to keep their real estate—and when I say *they*, I speak of the standing committee who represent Trinity Church in the Green Rooms of the councils, and who use the funds, not for the purpose for which they were originally designed, but to keep them fast, increasing and swelling up in their hands. Her

policy now is not the same as it was prior to 1814. She holds her lands now, and builds magnificent Churches, and lays out immense sums upon them, and when the poor Churches come to beg of her, she has not a dollar for them.

And yet you tell me, with this immense amount of property on your hands, that this is good management! I wonder if the 125 corporator's of the church, understands what the management of this fund by the corporation really is. I wonder whether they know what these vestrymen and wardens are doing? No, Sir.—Not a word ever reaches them. No report is ever given to the corporators. The wardens and vestrymen are placed there only as Trustees, and yet they never account for the management of the fund, to those for whose benefit it has originally given.

Mr. Chairman, these remarks that I make about this corporation, do not affect Trinity Church nor her parishes and her clergy. It is any thing when I say Trinity Church and her parishes, and another when I say "this corporation." When I come to speak of Trinity Church and her clergy, I can speak of the good they be doing in the city of New York; for there can are no question that they are doing great good in the cause of religion, and taking care of their poor, as other churches do. But when I speak of the corporation, I speak of it distinct from the clergy, for they know nothing about its affairs. There is not one assistant minister who has any knowledge of the affairs of the corporation.

Sir: This corporation deserves great credit for some things, and I am willing to give her all that of right belongs to her. She has erected Trinity Church at the head of Wall street, looking down upon the great money depot of that wealthy city, with her lofty spire piercing the sky, and her merry bells ringing out their music in the ears of all, and giving as pleasant an invitation to the rich, to those who love to sit beneath her sanctuary. For all this—for the other magnificent edifices she has built up in the city of New York—for founding her Saving Societies and her industrial schools, she doubtless deserves great credit. But I might stop here and ask whether, while she has done all this, she has not a little overdone it, by fitting and furnishing some of the churches in a style of splendor and magnificance, almost forbidding to the humble christian wanderer who seeks to enter her doors. Her velvet cushions, her crimson draperies, and all her gorgeous embellishments may well attract the rich and luxurious; but the poor rarely seek Trinity Church, to hear the word of God from the minister's lips.

We have heard on several occasions within the last few years, in these Senate Halls, the voice of warning as to the power which the Papist church exercises over the minds of men. We have been continually reminded of the dangerous power which that church wields over the will and action of its communicants. We are reminded, too, from time to time, that there are powerful corporations in the State of New York, which exercise an undue control over the powers that be, in the State Government. The note of alarm is constantly sounded on this key.—But I ask, Sir, is there any power now existing, or that ever did exist in the State of New York, stronger, and bolder, and more defiant than this corporation? A power that starting first in the city of New York, and that when the Senate pass resolutions affecting it, defies the Legislature of the State, and proudly says, "you have no *right* to call upon me for information." A power that, when the committee appointed under the authority of the Senate seek to discharge their duty, and to take testimony as to the affairs of Trinity, would crush out that committee, and hold it up to the scorn of of the people of the State of New York. A power that is not content with the attempt to extend its influence over the committee, but creeps slowly and stealthily into the Legislature, defies the State herself and declares that it holds grants from the British crown, which are over and above all laws of the State of New York.

But I ask the Senate to remember that this power is, after all, but a grasping corporation.—Although she has behind her the proud spire of Trinity church, yet I know not why she should have any more rights or authority here than a bank corporation, an insurance corporation, or a railroad corporation.

Sir, this power rules also the Conventions.—She does not stop at ruling in the city and at the Capital of the State, but she rules and control by her own will the members of the Convention of the Diocese. And what is probably more to be regretted than aught else, she controls her Bishop. The Head of the church is called to her aid, and puts forth his power in order to defeat all but the right sort of men.—But not only does she exercise this in the diocese in which she exists, and where her business is carried on, but she goes into another diocese, and drags into her meshes another Bishop.—And yet we are told that Trinity Church knows no party, and has no ambition!

I have already said that this power rules the country church. Yesterday morning, more by way of curiosity than from anyother feeling I took up the list of remonstrances, to see who it was from the country that was pressing these memorials regarding the amendment of the law of 1814. I find that of the churches memorializing the Senate, there are in all 41. Of these, 5 are Low and 36 are High churches.

But however cruel, cold and merciless Trinity church may be in the use of the fund placed in her hands to aid the cause of religion; however much the interests of the Protestant Episcopal Church of the city of New York may suffer from her policy, I would invoke here no feeling against her. I desire the cool, calm, deliberate judgment of the Senate on the matters before it. I ask for no excitement of feeling. Let us lay aside all prejudices on either side, and meet this question as we meet all other questions, unbiassed and uncontrolled by any influences that may seek to reach us under the garb of religion.—Let us meet it with judgments clear, and with

minds accurately fixed on the true matters in dispute between the corporation as it now exists, and the corporators whose rights were stripped from them by the law whose injustice we seek now to redress. I ask not that the bill introduced here, may be supported by any member of the Senate, unless he shall be satisfied that its provisions are just. I ask not for Legislative action against this corporation, unless those who were originally corporators under the grant of 1697 and the laws of 1784 and 1788, are entitled to rights of which they have been improperly deprived. But if they have any vested rights under that original grant and the susequent laws, then I say that the Legislature of the State of New York is bound to protect those vested rights, wrested from them by the act of 1814.

Sir, I speak not for the living only, but for those who are yet to come, for they also are injured by the law. It was not for the inhabitants of New York, in communion of the church of England in 1697; but for those inhabiting and to inhabit the city that the grant was made. It was to them and not to Trinity church that the property was given; she was simply a trustee—nothing more.

Now as to the question whether or not she has administered the funds wisely. If she had given to the poor churches as she should have given; if the fund had been distributed for the good of the church and of the people, then I grant there might have been some ground for saying there should be no amendment to the law of 1814. But if it is clear that prior to 1814 there was such trust, and thatthe property thus held for the benefit of the inhabitants of the city of New York is now improperly managed and untairly appropriated, then is it not a duty we owe to those now upon the stage of life, and to all who are to come after them, to reform these evils, and to rescue from Trinity church and her corporation, the rights of these parties so long diverted from them.

Why, the assertion is made that the original corporators have enjoyed these wrongs so long, that they begin to ripen into rights! That the wrongs to these beneficiaries having been suffered to quietly exist for forty long years, they ought not now to ask for their removal. I answer, that if there is a right existing—if these people were the original corporators—if the property was granted to their use—then there is no power in the legislature of the State of New York which can divest them of those rights or deprive them of that property. I repeat, that if the original corporators had rights under the original grant, no law that the State of New York can pass can take away those rights. They remain secure and inviolable for ever.

Mr. Chairman: I have already occupied the attention of the Committee for too long a time; but I deemed it necessary after examining the testimony, to briefly call the attention of Senators to matters which came up before the Committee, because I know it is impossible—voluminous as that testimony is—in the press of other business, to read one half of it. I again call upon Senators to enter upon the investigation of this matter without passion or feeling; to exercise their best judgment in deliberating upon it; and if in their opinion the law of 1814 did deprive these men of any of their rights, then I ask them to place the original corporators in the same position they occupied prior to the law of 1814. There is to be no overturning of Trinity Church, as has been represented in the country, and at this Capitol. The same men who are Corporators now, will remain Corporators still. The only amendment offered, and the object of the bill, is to restore to the original Corporators the rights they enjoyed from the year 1697 up to the year 1814.

SPEECH OF Mr. WADSWORTH,
IN BEHALF OF TRINITY.

IN SENATE....March 27.

At the close of Mr. Noxon's remarks, Mr. Wadsworth said:—

Mr. CHAIRMAN:—I feel oppressed—deeply oppressed—by the fearful responsibility which in my judgment now weighs upon this Senate.—The State is being tempted—the power of the State, by the bill before us, and still more by the substitute for that bill, is being invoked to perpetrate a crime, which, if perpetrated, will ring through the ears of Christendom. I feel, in view of the importance of the action we are called upon to take, that it is my duty to warn the Senate, and to say, in the eloquent language of Burke—

"Better it is to be aroused from our slumber by the alarm of the fire-bell, than to sleep on undisturbed and perish by the flame in our beds."

There is a magnitude attached to this question which, in my judgment, attaches to no other question on which we have been called upon to act; and it must be my apology for submitting, however imperfectly, to the Senate, my deep and earnest convictions of the momentous moral considerations involved in this subject.

The ancient and venerable Corporation of Trinity Church, now stands arraigned before the Legislature, for several grave offences. What are those crimes, and what the head and front of her offending? The first is, that she possesses enormous wealth. What is that wealth, and how acquired? In 1695, when New York was but a hamlet; when her high wall kept the savage out of the petty village, a little church was established—the foundation of Trinity was laid just within the walls, that the devotions of her congregation might be carried on in peace.

Where Trinity stands is her cemetery, also, where slumbers Alexander Hamilton; where rest the ashes of Lawrence, forever to be remembered for those memorable words—"Don't give up the ship!"

Moving a little into the outskirts, we find the church in 1704 possessed of a farm—almost or quite out of the village—called the King's farm, then yielding a yearly rent of 30 colonial pounds a year. On the south end of

this farm, she erected the chapel of St. Paul's, laying out the remainder of the block as a cemetery.

In due course of time, she erected on another portion of the farm her chapel of St. John's, attaching to it two other blocks as an open ornamental Park, for the benefit of the Church and the neighborhood.

These, gentlemen, together with the remaining portions of the farm, which blessed Queen Anne bestowed upon her, constitute the whole of Trinity's possessions; and of these then modest possessions, while not one rod of land has been added thereto, more than two-thirds have already been sold by this persecuted corporation, for the benefit of the christian world.

The second crime urged against Trinity is that she will not sell nor divide her consecrated grounds, so sacred in the memory of the church It is perhaps the misfortune of the Episcopal church, that something of the old Catholic faith attaches to her, and that she believes that ground once consecrated should remain consecrated forever.

Now I claim that there are two parties who appear on the record against Trinity church.—The one, the speculative philosophers of Wall street, who regard Trinity spire as it stands serenely looking down upon that scene of selfish and worldly strife, simply as an obstruction which prevents Wall street from being run through to the Hudson River.

In the cool philosophy of these gentlemen, the twenty corporations who have abandoned their sacred edifices, with all their hallowed traditions, in the older part of the city, have set a laudable example. Under their bidding, church after church, grave yard after grave yard, have fallen before the inexorable greed of gain, until the last relic of the Episcopal faith, Trinity, with its venerable chapels and cemeteries, is now called on to give way to the all devouring demands of trade.

These commercial philosophers have found a ready and most unscrupulous auxiliary, in a knot of enterprising gentlemen glorying in the name of "Low Churchmen," who not *of* Trinity, but contemning her doctrines and practices, is yet ambitious to become possessor and ministrant of her offices, wealth and power. These two combined, would pervert the properties of the church to purposes far other than the evangelizing or christianizing of the world.

Trinity resists them. She does not need money so much as to sell her dead ancestry. She will not part with the dust of Alexander Hamilton, though each separate particle might yield its ruby. He who sleeps there, over whose grave the Father of his Country might well have wept, and above whose ashes the trampling of ever busy generations is heard, though *he* shall hear them not any more for ever—should he not sleep—aye in the very heart of the commercial capital of the Union—as sacredly and undisturbedly as the Duke of Wellington sleeps in St. Paul's Churchyard—in the busy street in the very heart of the world's metropolis—in the appropriate spot selected responsively to the great public voice, which asked—

"Where shall we lay the man whom we deplore?
"Where the sounds of those he wrought for,
"And the feet of those he fought for,
"Shall echo round his bones for evermore!"

No, Sir! Trinity will *not* sell this precious ground. This sordid corporation—this grasping vestry, obstinately refuse to take the hundreds of thousands they might realise by selling the consecrated dust.

But let us pass on to St. Paul's Churchyard. What treasures has Trinity, there? About two acres of ground constitute the cemetery of this Church. There, too, slumber others of her honored dead—not so distinguished, perhaps, as our Hamilton and Lawrence—among them a couple of Irishmen, not quite unknown to fame, only a couple of Irishmen, Thomas Addis Emmett, the glory of the New York bar, and gallant Montgomery, the hero of Quebec. Now it is a shortsighted, unthrifty policy on the part of this stupid vestry, not to sell the dust of these two Irishmen for a million and a half of dollars. Yet Trinity *does* obstinately refuse to part with the sacred spot

"Where the forefathers of the hamlet sleep,"

where, besides the two Irishmen I have named, the dust of some ten thousand Americans is laid. And this constitutes Trinity's second crime, while the speculative philosophers of Wall street aided by their ecclesiastical allies would fain destroy this old-fashioned guardianship, which protecting the ashes of our ancestors, preserves and perpetuates their principles and virtues.

Again, we trace the work of these enlightened reformers, in the attempt to purchase St. John's church yard—or I should say, St. John's Park. In the great mart of commerce there is one leafy spot where the ringing laughter and noisy gambols of childhood go on through the live-long day; where, through sequestered walks, the sober matron and the joyous maiden can in summer see, in the wide spread foliage above, the kindly beneficence of an overruling providence; and in winter, through the long, bare arms of the leafless tree, can gaze without obstruction upward to the dwelling place of God.

A few speculators thought this a good spot for a Post Office. They applied to the Church to know on what terms it could be purchased. Trinity met them—not to drive a bargain, but to drive them away from the speculation—and with that view asked for the property the four hundred thousand dollars of which we have heard so much. It was but a courteous method of discountenancing a selfish proposition.

I now come, Mr. Chairman, to the third crime charged against this corporation. It is that she has rebuilt Trinity in a style which comports with her dignity and possessions, and preserves her other magnificent constructions, in a locality where, by the demolition of some thirty churches in the last half century, there would, without them, be one widespread moral waste. Sir, it

seemed fitting that Trinity, upon this exact spot, shouldrear aloft her spire, in such singular contrast with the scene below; where,while it rebukes Mammon in his temple, it also catches the eye of the emigrant as he crosses the Atlantic, and tells him that England's great and sainted Church, whose memories were with him when in tears he bade his native shores good night, exists and flourishes in the land which stands ready to receive him to its bosom and to offer him a happy and a prosperous home. Nor should we forget, here, that that Church, through her appointed ministers, meets the wanderer as he leaves the ship, to throw around him her fostering care, and guide his footsteps through those perils and temptations which too surely beset the stranger in a foreign land.

Is it, then, a crime, that Trinity has re-built her church? Sir, if there be in that great restless, struggling, busy city, one object of sense more typical than any other of the sleepless eye of God looking down on man, it is the solemn spire of Trinity serenely standing in the fullness and beauty of her religious strength, regarding with fixed and unalterable mien the writhing, wrestling world of Wall street at her feet. The moral malady of that great metropolis rages in greatest intensity on that very spot—copied in its counterpart, the Fifth Avenue—the base cupidity of the one feeding the empty ostentation of the other. Sir, it is well, it is very well, that Trinity stands where she does, a perpetual warning and rebuke to both. Aye, sir, until public faith and public virtue be quite extinct, there she will firmly stand, despite the efforts of those who, as between two thieves, now seek to crucify her.

We are told, too, Mr. Chairman, that this adornment of her sanctuaries is, on the part of Trinity, a wasteful expenditure of money. Is this a time for the great Protestant Episcopal church to count the cost of her constructions, when the Papal Hierarchy, after covering one continent with her venerable cathedrals, through which, more perhaps than through any other cause, she has been enabled to control the faith of men and of nations, is at this hour, within the very sight of Trinity, laying the foundations at an outlay exceeding a million of dollars of a majestic cathedral whose grandeur, shall be without compare on the continent of America; whose architectural proportions shall embrace all the beauty and grandeur of ancient and of modern art; whose two stone towers shall each in their sublimity rise to a point one hundred feet exceeding the highest pinnacle of Trinity? Is this a time, I say, to reproach a Protestant Episcopal church, for the greatness of her possessions, to begrudge the expenditure in the comparatively modest edifices against which these railing accusations are brought? Is this a time, when the Church of Rome is thus concentrating and consolidating her power and influence, to say that the Protestant Episcopal church shall not be permitted to lift up even one spire like Trinity?

In my opinion, if there ever was a time when the Protestant heart should rejoice over her one undivided Church, it is now; when Baptists and Presbyterians and Methodists are being rent asunder by the fanaticism of the day. It is now that she should patriotically, as well as religiously rejoice that the Episcopal Church, the one undivided, indivisible church of this great Union—should stand firmly and grandly erect with her array of thirty-one Bishops representing the unity of the Church as co-extensive with the nation. I who am no churchman, nor the son of a churchman; I, who have no interest in this matter beyond the moral advancement of the age; I rejoice to see the bulwarks of this mighty Church so strong; and I believe that it would be a parricidal act, if by the illegal and unconstitutional provisions of this substitute and bill we should disintegrate and dissipate the vast properties of this Church; the only Church that in the hour of trial could, from her extent, safely or successfully wrestle with the concentrated power of the Papal Hierarchy.

I deem it my duty to resist this bill further, because, if its principles should be carried out and sustained by the judgment of the courts, they would remove the last muniment of constitutional protection upon which alone the rights of individual property can safely repose. Sir, I am no conservative. I have ever walked in the path of the radical democracy. I believe that man, and society, and government progresses and ought steadily to advance through progress in their laws. But progress is not Jacobinism. Sir, the alarming manifestations in urging forward the present most pernicious and destructive measure, compel me to conservatism.

Mr. Wadsworth here gave way to a motion for adjournment.

IN SENATE.....March 28, 11¼ A. M.

The Senate in Committee of the Whole resumed the discuision of the Trinity Church bill.

Mr. Wadsworth, having the floor, resumed his remarks. He said:

Mr. Chairman:—My health is hardly equal to the task of entering upon the discussion of this question to-day; but in order that no time may be lost to the Senate, I have resolved to do so. When the Committee rose at its last session I was endeavoring to defend the church from any reproach sought to be cast on her, because of the costliness of her architecture, and because in the opinion of the Honorable Senator from the 22d, her velvet cushions are too rich and luxurious to be used as sittings for the humble poor. I was expressing my amazement that any churchman, in view of the facts then presented, that the Catholic Hierarchy is at this hour seeking by its mighty public edifices, to overshadow the city, the State and the nation;—and when I speak of the Catholic clergy I speak of them, as I always do and always shall, with the deepest respect—I was expressing my amazement, I say, that any one of the Protestant faith should not concede the fact that a church possessing wealth, has a right, and that it is her bounden duty to magnify herself, and make herself honorable among men.

Sir, I am delighted that my eye has at this moment fallen upon the evidence of Bishop Horatio Potter, one of the best and purest and brightest lights of the church, whose words so completely vindicate the position of Trinity, and the line of argument which I had assumed in her defence.

In speaking of the great sanctuary of the English Church, and in reply to the pressing questions of the Committee of the Senate in relation to Trinity's constructions, he says:

"I consider that Trinity Church only did her duty in making them models of ecclesiastical architecture. Her wealth had been created mainly by the growth of the city. She therefore owed to the city some contribution in the way of beautiful and magnificent edifices. And with her wealth, she owed it equally to the character of her own communion. Had Trinity, with its means, limited itself to the erection of buildings at a moderate cost, I have no doubt the parish would have been severely censured, both by the church and by the community generally. As a general thing, I believe a few costly churches are of great utility to the interests of religion. I have no doubt that Westminister Abbey has, in the course of ages, been worth to the influence of Divine Truth in the world, vastly more than all that it ever cost."

Impressive words, that should be, and will be forever embalmed in the History of the Church.

Mr. Chairman, before I should expect a Churchman to reprove the Church for the expensive character of her edifices, I should expect the modern disciple of art to reprove Raphael or Michael Angelo for the labor which gave to the world their immortal works. I should expect the Frenchman, as he paces the long passages of the Louvre, to reprove the French nation for the rich productions of genius which everywhere adorn her walls. Sir, if there be one thing which above all others entitles this glorious Church to consideration in this hour, it is that she seeks by her splendid edifices to attract through physical forms that attention from the poor which is yielded to naught else.

If there be one fundamental reform for which she especially deserves praise, it is that by which she seeks to revive the practical piety and charity of the mediœval ages; when through costly structures, and beneath the influence of grand and solemn ceremonies, the mind of the poor and the uncultivated was by the very attraction of these material forms, led insensibly upward to nature's God. If this be reprehensible, I would to God that the church with which I am connected, should she ever possess the ability, might be guilty of the same error. No, Sir; I do not believe that the magnificence of the structure is at all in conflict with the simplicity or the sanctity of religious service; but I hold that it rather spreads a subdued and holy awe over religious worship.

Will it be pretended that the poor do not enter Trinity? That those who minister at her altars do not assiduously attend to their duties, year after year, and every day in the year? That the Church is not ever open, that the minister of the church is not ever ready, alike at the Baptism, the Marriage and the Funeral; at each stage of moral want, where religious warning or religious consolation is needed by an ever erring humanity; with the sick, the dying, and the dead?

Would the Senator invite us to a comparison, or I should rather say a contrast, with her uptown sister churches, or with Grace Church, that stands so conspicuously foremost in the present contest as the assailant of Trinity? Behold her, then, standing in her pride; the rich carriages with their velvet cushions, arrayed in glittering lines before her doors; the coachman with his gloved hands reining in the prancing steeds; the footman in his gaudy livery swinging back the door upon its silver hinges; the fair communicant exquisite even in her devotions, gliding to the altar, bearing the 'wealth of Ormus and the father Ind' upon her lovely form, sweeping along the carpetted aisle, the rustling silk mingling with the operatic strains that burst upon the ear.

Gorgeous in her riches, and more gorgeous still in her splendid and polished worshippers, Grace looks down with ill-concealed contempt on the humble congregation of Trinity. Closing her portals in the sultry summer months, pastor and flock go gladly out to recruit the strength exhausted in their spiritual labors, while the faithful servants of Trinity stand amid summer heats and wintry blasts ever faithful at their posts, comforting and supporting the sorrowing, the desolate and the down-trodden. Sir! The doors of calumniated Trinity, stigmatised on this floor as destitute "of a single scintilla of spiritual feeling," have never been closed even for a day, but from that solemn moment eleven years since, when her Vestry piously offered up their edifice to God, a daily stream of gratitude and prayer has unceasingly ascended to the Gracious Giver of all Good.

Mr. Chairman, while I am sensible that these comparisons in matters of religion are or might otherwise be reprehensible, I desire it to be understood that we have not invited them. Has not Trinity been attacked upon this floor? Has she not been brought here by an inquisition instituted first by the Senate, and followed only by petitions to save this investigation on its very threshold, from assuming its real character of a Star chamber inquisition? Trinity is not the assailant in this case; but as the guardian of this sacred trust, she cannot permit herself to be disgraced and degraded as she would be should she submit in silence to the wrongs which are sought by this controversy, to be imposed upon her.—She was long silent—she will be silent no longer. She was dragged, a reluctant and unoffending party, to the bar of the Senate; but when it is sought to place her in the position of a felon, it becomes her duty to resist.

Let us proceed, then, with our task. And first, since the pay of her clergy has been made the basis of complaint, let us look at the evidence and see if her accusers gain anything by

the comparison. It appears from the testimony of Dr. Berrian, that her rector receives $3,500; that her five assistant ministers get $3,000; that her three other assistant ministers receive but $1,500 per annum; making in all for her *nine* officiating clergymen, the sum of $23,000; while the rectors of *five* of the up-town churches that appear as parties in this controversy against Trinity, receive an average of $4,000 each, or $20,000 in the aggregate.

Next, as to the baptisms and confirmations.—A comparison with the four Churches of St. Mark's, St. George's, Ascension and Grace Ch., for the year 1856, shows the following results:—

Trinity Baptisms.....433		
Confirmations.....176		
St. Mark's Baptisms.....21		
Confirmations.....	23	
St. George's Baptisms.....36	99	
Confirmations.....	27	70
Ascension Baptisms.....42		
Confirmations.....	20	
Grace Church—not reported		
Confirmations.....	35	

Excess of Trinity—Baptisms 334. Confirmations 71.

The funerals at three of these churches compare as follows, for the year 1856:

At Trinity.....	129	
At St. George's.....	6	
At St. Mark's.....	20	
At Ascension.....	12	
	—	38
Excess of Trinity.....		91

These, Mr. Chairman, are the figures; and if it was worth while to institute a comparison at all in matters of this kind, it was worth while to arrive at the facts now presented to the Senate. This, indeed, has become doubly necessary, since the Senator from the 22nd has seen fit, in order to sustain his argument, to quote only such evidence as would seem to substantiate the positions he has taken, entirely ignoring all the proof by which those positions were successfully refuted.

Again, on the question whether Trinity is in reality the church of the Poor, I desire to call the attention of the Senate to some facts set forth in the evidence.

On page 43 of the report, the Rev. Dr. Berrian testifies as to the general provisions for the poor in the Parish, including *free burials* in Trinity cemetery:

"In addition to this, Trinity church corporation makes an annual contribution of $2,000 towards the Communion fund, to supply the deficiencies in the offerings of the people, on account of the altered condition of things in the parish. It appropriates nearly $1,600 a year to lay agents, whose business it is to give needful assistance to the emigrant, on his arrival at this port; to visit the suffering poor, and ascertain their fitness for the bounty of the Church, and to search out the ignorant, for religious instruction. It expends about $1,000 a year, on the Parish school of St. Paul's chapel, and it likewise empowers the Rector, with unlimited discretion, to give orders for the free burial of the poor, of our own congregations, as well as of others, a privilege which is very frequently sought, and in almost all cases, cheerfully granted alike to all."

Again, in relation to the pews and sittings provided for the poor in Trinity, on page 5 of the Report Dr. Haight, says: "it is computed there are from 1200 to 1300 free sittings in the Parish."

Mr. Verplanck states page 93, that the actual receipts from the pews of Trinity, for the year ending in May 1856, was only $157.

"At St. Paul's the sum collected was $280, for the same period. I will add that my personal knowledge is of Trinity, where I attend with considerable regularity about half the year. The operation of St. Paul's resembles that of Trinity."

Further, in a reply published in a New York paper to an enquiry, the Sexton of Trinity Church states, that out of 139 pews in Trinity only 11 are occupied by those who lease or own them. So that there are 128 pews besides the sittings in the aisles, to which he and the Assistant Sextons feel at perfect liberty to show strangers poor or rich, and many of these are constantly occupied by the poor.

In regard to the Congregation at Trinity, Dr. Haight says:

"The congregation at Trinity church is large, and composed in great part of strangers, transient residents, young men, clerks, etc., and the poor, upon none of whom is any tax, in the form of pew rent or otherwise, laid, for the support of the ministrations of the church. Of the character and number of the congregations in the three chapels—St. Paul's, St. John's, and Trinity chapel, I cannot speak with as much certainty. The congregation at St. Paul's appears to me to be very similar to that of Trinity, and constantly becoming more so. In St. John's chapel, an arrangement has been made, I believe, by which a certain number of free sittings have been provided, with special reference to the poor; and in Trinity chapel there are from one hundred and fifty to two hundred free sittings, in the best parts of the church, which are generally well filled.

If the statement referred to, be true, it is not to be wondered at, inasmuch as two of the congregations of Trinity Parish are now mainly composed of strangers, transient persons, the working classes and the poor; while even in regard to the other two congregations it may be affirmed, that neither of them, not even that of Trinity Chapel, compares in point of individual wealth with several other independent congregations. There has been a very great change, of late years, in the down town congreaations, in consequence of the removal of persons of substance, to the upper parts of the city. I can see no connection whatever, between the alleged smallness of the contributions of the members of Trinity Parish and the administration of the affairs of the Corporation. If there be a fault in the matter, it cannot justly, be laid to the charge

of the Vestry; it must rest with the clergy and the people."

Dr. Vinton thus testifies as to the character of the congregations of St. Paul's. His testimony will be found on page 60.

"At St. Paul's chapel, the only one I speak of, the congregation is composed of three classes: first, the old families retaining their seats; second, strangers from the hotels, clerks and sojourners of the city, engaged, for the most part, in mercantile business; third, mechanics, artisans, porters, washer-women, hucksters, and miscellaneous poor, who obtain their living by daily labor."

As to arrangements for Parochial Work, p. 60, 61, he says:

"There is a parish school employing two teachers with voluntary assistance from the women of the parish, to teach poor children the principles of religion, as professed by the Episcopal church; the elements of common learning; sewing to the extent of each making their own clothing, and laboring to get their own living, and also instructions in church music. The number of children is 80 or 100; also a Sunday school including other children of the parish, taught by between twenty and thirty teachers of both sexes; two classes for advanced scholars; also a weekly Bible class for clerks and young men. The public services in the chapel are every Sunday morning and afternoon, five months in the year, and a night service additional for seven months. I officiate statedly only in morning service, the other parts of the day being employed in other parts of the parish, at the church or chapel, and therefore, can speak only of the congregation in the morning. Then it is large, as it is at all the chapels; the communion's offerings liberal, as shown from the fact that on Easter day they amounted to the sum of $270, and on Christmas day to $180, or thereabouts. At other times the contributions are generous. There is established in connection with St. Paul's chapel, a mission house, open from 9 A. M. to 2 P. M., where one of the assistant ministers is present every day. There are two laymen employed to inquire into and examine every application for aid, and report the same to the office. The case is recorded in a book kept for that purpose, and a record made of all that was done in each case. The applicants are from vestrymen wanting clergymen, clergymen wanting parishes, poor wanting help, the sick medicine, the emigrant advice, &c. The office is in communication with most of the extant institutions of charity in the city of New York. Cards are placed in hotels and eating houses, inviting guests, in my own name, to attend St. Paul's chapel, where free sittings are provided. We have received letters from persons we have aided, expressing their thanks to Trinity Church."

I cannot leave this branch of the subject without alluding to the fact that the Hon. Senator from the 22nd, even while making the remarkable declaration that "*Trinity church has not one scintilla of spiritual feeling!*" was compelled most unwillingly as it seemed to me, and probably only from the conviction that it was necessary to break the force of what must be admitted to have been a most intemperate and unjustifiable expression, at a subsequent stage of the discussion, to admit that those who minister at Trinity's altars are without blame. But it is this vestry—this corporation, he says, which he would brand and stigmatize as criminal. And who constitute this vestry? Twenty-two gentlemen as far above reproach as any twenty-two that could be selected within the great metropolis. And why are they denounced? Because they are an old fashioned set like our Hamiltons, Jays and Kings. Because they will not sell or disturb the cemeteries of Trinity improvidently, or prematurely sell the property of the church.

One of these vestrymen is Gulian C. Verplanck. Is he to be impeached upon this floor? Who that knows Mr. Verplanck does not know him as a man of most unostentatious manner and liberal life; as one who has devoted twenty years of his life to the emigrant, for whose good, as a Commissioner of Emigration, he has constantly labored? And is he one whom the Senator from the 22nd would impeach?

There is Gen. Dix, too; a name not unknown in the State of New York; he also is a member of this Vestry. A man of letters, distinguished among his compeers, and who has already achieved an exalted place in Statesmanship,—is it he, that the Senator from the 22d would impeach?

Aye, but will the Senator say, 'these are not the men—I do not impeach these.' Then I reply that they demand, and their fellow Vestrymen demand, that those who he does intend to impeach be shall impeach by name, and not attempt thus covertly to cast a stigma upon any who in temporal or spiritual affairs administer to the church.

The Hon. Senator would not disturb the clergy; the clergy who he admits have been so constant in their ministrations at the altar, and in their attendance at the homes of the poor, although by the provisions of his bill he would let loose upon these pious and devoted men an unbridled power which would drive them out to starve. But he only desires to disturb the Vestry—the corporation—and his charges are only levelled at that corporation, who, in the exuberance of what is itself an insane frenzy, the Hon. Senator declares, are "not fit for a madhouse." Let me tell that Senator, that in this attempted sarcasm he utters but the truth in saying, that a Vestry who through nearly 160 years have administered the vast properties of this church without the occurrence of a single malversation in office, and without the loss of a single dollar to the revenues of the church, and under whose prudential management this property has grown from an inconsiderable farm, to its present value of four to six millions of dollars—are *not* fit for a madhouse.

And at this point of the debate, Mr. Chairman, I desire to introduce to the Senate eight gentlemen, inhabitants of the city of New York who seem to have taken upon themselves the

exclusive office of asserting the claims of their fifty thousand fellow Episcopalians. As members of a revolutionary committee, or commissioners of confiscation, they seem already to have assumed the office of distributing the spoils. For what have we on our tables, but a proclamation signed by Messrs. Bradish, Minturn, Brown, Wolf, Cambreleng, Cooley, Jay, and Winston, proclaiming to the rural districts that they are to be admitted to share in the spoliation? To be sure the property is claimed on the legal pretence of its belonging to the Episcopalian inhabitants of *the city*, and not to the congregation of the church, but nevertheless this self-elected Vestry assure the country churches that without a particle of legal right they shall nevertheless have a part—assuring them that so rich is the prize that it will yield "ENOUGH FOR ALL."

Under the same assurance the pious fears of those who love the ancient and time-honored walls of Trinity, and its chapels, are also lulled to sleep. There being "*enough for all*," there will be no necessity, *at least for the present*, of pulling down the sacred edifices, or of cutting up its cemeteries into lots for stores. Nay further, the new *regime* may graciously permit, at least for the present, the pious and devoted servants of God, to continue in the parish their blessed ministrations to the poor and wretched. No—no—they will not yet disturb the parochial officers. They will not yet carry off the ancient and massive sacramental vessels, nor remove the communion plates from the altar, nor silence the peal of the organ, nor even interfere to check the too zealous churchmanship of its ministers.

No sir, as long as there shall continue to be "enough for all," the parish governed by a foreign vestry, strangers to its wants, and feelings, and necessities, will be allowed to drag out a dependent and subordinate existence, without legal independence or spiritual equality, but sunk below the level of the humblest congregation in the rudest log cabin in our western wilds. Yes, we shall be permitted to live, subject to the will of these eight Christian gentlemen, who ask nothing for the present, but to relieve us of all our productive property. They might even consent to admit us in some new form, as a partner, to share our former possessions with their new proprietors.

Sir, the serene complacency with which these gentlemen utter the terrific and ominous words, "enough for all," fills me with alarm and horror. It is the language of Jack Cade and Ledru Rollin, and has been the very watchword and rallying cry of Agrarianism and Jacobinism throughout the whole dark history of human cupidity and injustice. The attacks on the nobles of France, scattering countless millions as the prey of lawless rapacity, had for their justification "enough for all." If such be the morals of this Senate, why not wait at once on Mr. Astor, and after assuring him that we do not desire to dispossess him, should modestly request to be taken in as partners in his vast property on the ground that there is "enough for all!"

But this self-elected Vestry and their confederates in one thing at least, have given evidence of their sagacity. They have chosen a profitable time to enter upon possession; a time when two long leases are about to expire —one in 1864 and one in 1866—when at least two millions of property would fall at once into their handsfor distribution.

Sir! Let me ask where all this is to end? Can we not see and feel that these human passions, if now unbridled, will inevitably in obedience to moral, no less than physical laws, gravitate on-on-on, to the bottom? To-day the first two millions are divided up. Then comes the next division, and the next; and alas for the Church—alas for the country when the spoliation of this ancient and honored corporation shall form but the first in that dark catalogue of legislative aggressions, which are to overthrow law, religion and social order.

Mr. Chairman, the Hon. Senator does not speak for the dead but for the future generations of mankind. If this be so, why not let this vast church property remain for the benefit of the future generations of mankind, and not disperse it to the four winds of Heaven. Why does he seek by his bill to deprive this ancient and loyal corporation of its independence? Why does he seek thus shamefully to degrade it? It will be governed no longer by its own honorably elected vestry; but by the revolutionary Committee thrown upon it by this wave of Jacobinism that now threatens the destruction of the American Church. Sir! the whole Christian world will be shaken and shocked by her downfall.

And again, I ask, Mr. Chairman, why should this wrong be done? Trinity is rich, but her riches are of legitimate growth. She has but shared in the general prosperity which the statesmanship and genius of Clinton secured to the metropolis of the Empire State, by connecting the river with the Lake, and throwing open to us the western wilds. You might as well complain of the quiet Dutchmen whose cabbage gardens are now covered with palaces, as to blame Trinity because, beneath a wise guardianship, her once humble possessions have swelled into great and coveted wealth.

But the corporation of Trinity Church are further reproached for untruly returning the value of their real estate. It will be recollected that their vestry consists of twenty-two individuals, widely differing in views and pursuits and means of knowledge. It is a *moral impossibility* that all could unite in the same valuation. There was no common standard of value to which they could possibly refer, except the official valuation of the city assessors who are sworn to value truly all the lands in the city. If it be said that the assessors never do in fact value lands at their full market value, it may also be said that the fact is perfectly notorious to every one—and that every one is equally competent to add such proportionate rates to the assessed value, as experience may suggest. The only statement really

important for the Church to return, and solely within their knowledge, was a true exhibit of the *location* and *size* of their lots—that being given, every one is furnished at once with the means of valuing each separate lot. The Church have practised no deception in the matter. On the contrary they explicitly state in their return to the Legislature of 1856, (Senate Doc. No 45, page 6, line 10,) that they return the value "as as-" sessed in 1855 by the officers of the city *for* " *the purpose of taxation.*" If this return does not correspond with the assessor's books, then and then only will the Church deserve censure.

The only object of the legitimate inquiry was to ascertain, not the speculative or estimated value of the land held by the church, but what is its actual *income*—in a word, what are the existing pecuniary means of the Vestry, to sustain the sacred cause committed to their charge. The *rent* of a lot is a thing certain to be known; the *value* of a lot cannot be certain. The only cardinal fact necessary to be known and truly returned is the actual pecuniary income of the land; and that they state precisely, in dollars and cents, as being $71,301.97. If that fact be untruly stated, then and then only are the church deserving of censure. They also return the amount of their debt as being $648,913, and that the interest is $41,895. And next as to the return of the number of corporators. The church return that there are 213 pew holders. It now turns out by close scrutiny, that a few of them are dead, and that some have removed from the parish. But of what practical importance is it, whether the corporators are 213, or 113, or 50?

If the corporators legally own the property, it matters not whether their number be great or small. The rights of 50 are just as sacred as the rights of 500.

And so of the communicants; it matters not whether the number be 92 or 52. The question is have they the legal right?

If it be said that the number is too small to control so large a fund, let it be remembered that every man of full age who chooses, can become a communicant and a corporator. He needs only to take the communion and then to hand his name and residence to the minister.—No man has ever yet been refused or debarred the privilege; it is now open, wide open to every Episcopalian in the city.

The secret is, that the communicants are satisfied with the church and its management and although they are now *eleven hundred* in number, only 92 (or as is asserted only 52) have thought fit to take the trouble to qualify themselves as corporators. Is either the church or the vestry to blame for this?

The Senator from the 22d, says that this corporation, though amenable to the Legislature like any railroad, insurance or other corporation, set themselves above the law, defy the Senate, and stalking into the Legislature, shelter themselves behind a grant from the British Crown. I would ask by what other right *he* would come down, like the Goths and Vandals, to take possession of this Rome of the Episcopal Church? Would it not be under the grant of the same King and Queen by whom this royal bounty was originally dispensed to Trinity? For what else but to assert a pretended right of the claimants under that very grant, is the present law designed?

Sir, it is not the office of a wise or paternal legislature, to pass a law like the present which must inevitably keep open for years a bitter fountain, not only of litigation in the courts of justice, but of discord in the heart of society, permanently dividing, as it has already begun to divide, church from church, family from family, and friend from friend.

Already the newspapers teem with angry recriminations, kindling the basest passions of our nature. Both clergy and laity are rapidly rushing into the heated conflict. Is it wise to foster this state of public feeling? To add fuel to the flame? May not a a prudent Senate safely decide to banish this exciting topic from the Houses of the Legislature, and send the parties to the Courts of Justice, where only, their controversy properly belongs?

This controversy is purely judicial in its nature. The Senator from Onondaga admitted this, when he said that the great mass of the evidence before us bearing upon the management of the corporation had nothing to do with the question; that it was not a question of fact, but of law. Why then should the Senate usurp the judicial ermine? Do not their proper legislative functions sufficiently engross their attention, that they must spend precious days and weeks in listening to arguments proper only for the calm and sober atmosphere of a Court of Justice?

The principles involved in this discussion call for profound and deliberate investigation, which only can be secured in the tribunals constitutionally provided for the purpose.

But if it be proper to convert the Hall of Legislation into a judicial forum, then let me say that the argument of the legal principles involved in this matter, has not even commenced. After three days debate, the legal discussion has not even approached its threshold.

For does the gentleman from the 22d really delude himself, still more, does he seek to delude *us* with the idea that he has *argued*, still more that he has *established* the fundamental legal proposition, that the Episcopal inhabitants of New York, are all alike, entitled to the property of Trinity Church? Has he stirred a single step in the way of removing, the plain palpable legal obstacles which prevent such a conclusion? Has he uttered a word to gainsay the arguments, clear as noonday, coming from the ablest legal intellects that the State has ever possessed, conclusively limiting the said "inhabitants" to those who legally congregate within the walls of Trinity, and are duly admitted into its "congregation" by its legitimate authorities?

I intend not to discuss this nor any of the legal questions involved, intending and agreeing to leave them to friends in this body abler, and more fully prepared than myself. I merely mean to

ver that the gentleman from the 22d has shrunk rom their discussion, or rather that he has boldy cut the knot, by unscrupulosly assuming the very point at issue, and thus clearing all legal obstacles at a bound. I deny wholly and utterly hat the Inhabitants of the city not members of he congregation have any rights whatever in his matter, and before the gentleman stirs another step in this debate he is bound affirmatively to prove that they have. For my own part, sir, I believe that law—that right—that consecrated justice is on the side of the church.

The Senator from the 22d, has further found fault with Trinity for her gifts. He complains that they are bestowed upon the High Church rather than upon the Low. He has taken the trouble to examine the remonstrances that lie upon our table, and he finds that 35 are from High Churches and 6 from Low. Now what care I, who am neither High nor Low Churchman, about these dogmas; and what right has the Hon. Senator to introduce them into this body to influence my opinions? I can only say in my judgment that it is evidence of sound churchmanship in the country, and when the city shall have become as sound, these quarrels will perhaps have ceased. I have received and presented petitions from every Episcopal Church in Buffalo, and if *they* are all High Churches, then must I regard the High Church as a noble church; for well I know that they *are* noble churches—that their church Wardens and Vestrymen are noble men, and that their clergymen, to my feeble judgment, seem to be worthy ministers in the service of their God.

The Senator complains, too, that Trinity has done but little or nothing for the cause of education. On the other hand I contend that sound learning has found in her a constant benefactor. Did she not at an early period give to Columbia College, ninety valuable lots, worth at the present hour full three millions of dollars, and making that College the most richly endowed of any on this continent? And whence proceed those shadows that at evening sunset rest upon the bosom of Seneca Lake? Are they not from the turrets of Hobart Free College, as I believe the only Free College in the State, and was not she, too, endowed by Trinity? Has she not her parish charities for the purpose of education; her Industrial schools with their thousand scholars? And yet she, forsooth, has done little or nothing for the cause of education!

But, Mr. Chairman, I do not wish to detain the Senate any longer by discussing facts, which the Senator admits have very little to do with the bill before us. Nor, as I have said, is it my desire or intention to touch upon the legal points involved in this question. I will but pause to say that in any controversy involving real estate, ancient possession must amount to something. In the present instance, we find the church in the quiet, undisturbed possession of her property for more than 150 years; and this possessory title we hold to be quite as good, as the simple assertion of the Senator that it is owned by others. It is not the business of the State to disturb old titles. It is not the right of the individual to do so. "Cursed be he that removeth his neighbor's land mark." But if any supposed corporator of Trinity thinks himself deprived of his legitimate suffrage, let him go and offer his vote, and if denied, let him, thro' a *mandamus*, make his appeal to the law. The act of 1814 does not debar him from any legal right. No, Sir; and no person knows this fact better than the assailants of Trinity. They do not need the law they seek, but their real and only object in the present inquisitorial proceeding is to throw obloquy upon the corporation, poison public sentiment, and excite popular prejudice which is always easily turned against wealth in its aggregate form, in order in this way to set in motion a current which they think will be of service to them in the courts of justice.

I say Sir, that it is a most unworthy degradation for this Senate to become a *particeps criminis* to such a scheme; and I also affirm that there is nothing in any hasty or testy word or chance expression happening to drop from a single Vestryman, which any Committee of the body should condescend to embalm, thereby becoming the tale-bearer of human or christian infirmities, or which should justly expose the body at large to the merciless and indiscriminate severity now sought at the hands of the State.

Nor ought the State to lend any aid in disgracing the church, by opening the door for scenes of turbulence at her elections. For is it not evident that if this bill passes, several thousand voters, all stimulated by religious strife, will be yearly called to congregate within the ancient walls of Trinity, re-enacting the tumult and violence and riot of a 6th Ward election? At a game in which six millions of dollars is at stake, think you there will be wanting desperate players? that decency or decorum will rule the hour? And what will be the preliminary spectacle within the walls of the fifty other churches of the city, throughout the solemn ecclesiastical season of Lent, next preceding the Easter election? Will not the communion tables of those churches, each zealously preparing its band for the coming conflict, be thronged by crowds assuming for the occasion the mask of piety and faith, and by that impious mockery qualifying themselves to vote? And in a commonalty where Mammon is the God, will voters such as these possess no money value, command no market price? And when cupidity has won the prize and wrested it from the bosom of the church, think you not that the jeer of Wall street, mingling with the scoff of the infidel world, will rise as a stench in the nostrils?

Mr Chairman, these sickening and disgraceful scenes will never cease until every inch of the ancient domain of Trinity outside of its churches shall have been squandered. And how long after that event, think you, will Trinity churchyard and St. Paul's churchyard survive? Will they too, not fall victims to this rabid rage? Shall we not see fresh swarms of yet more raven-

ous reformers smelling out with keen, unerring scent, the money value lying dormant in the grave?

Better by far for the honour of the Christian world and the glory of God, that church and chapel and monumental tomb and storied urn were all wrapped at once in one common conflagration!

But in my present health, Mr. Chairman, I must speak no longer. I well may pause—for an orator "mute but potent," and more impressive far than the granite shaft of Bunker Hill, now stands silently before you, pleading not for itself but for the state, beseeching the Senate not to inflict this stigma on its hitherto untarnished fame.

History too, is standing here,—looking earnestly on to tell the tale of Law and Right struggling with Passion and Power,—to record our decree,—whether this venerable church is to stand an enduring monument of public faith and constitutional loyalty, or shall now be uprooted and scattered to the winds, to satisfy a wild, unscrupulous, unreasoning fanaticism.

But destroy the sacred temple as you may, the act will live forever in burning unextinguishable shame. Ruthless power may hurl down buttress and pinnacle and spire, but a dark foul blot will remain, lasting as time, that all the waters of the multitudinous ocean cannot wash out.

IN SENATE.....March 28.

At the conclusion of Mr. Wadsworth's remarks, Mr. Brooks said:

Mr. Chairman: I do not propose at this time to go into the discussion of the bill now under consideration, but shall content myself with now offering a substitute, reserving to myself the right at some future day, to occupy as brief time as possible in examining the merits of this bill offered by the Special Committee.

The substitute was read. It is as follows:

Section 1. The Church Wardens and Vestrymen of Trinity Church in the city of New York shall hereafter be chosen as follows:

One of said church wardens and ten of said vestrymen shall be chosen by the pew holders and communicants of said Trinity Church, and its chapels entitled to vote under the second section of the act entitled, "An act to alter the name of the corporation of Trinity Church in New York, and for other purposes," passed January 25, 1814. The other Church Warden and the remaining ten of said Vestrymen shall be chosen by other Protestant Episcopal churches in said city, now or hereafter in union with the diocese of New York; for which purpose the respective vestries of said churches shall, yearly, on or before the first day of March, select one of their body, by a written act to be signed by a majority of said vestry, and duly certified by its clerk. The persons so to be selected shall assemble in Trinity church in said city, or in one of its chapels, at the time and place fixed by law or the charter of said church, for its annual elections. A majority of the persons so to be assembled, shall choose by ballot the said remaining church warden and ten vestrymen of Trinity church; in such election each of the churches, so represented, shall be entitled to one vote as a corporation, and one additional vote for each twenty-five of its communicants, pew holders, or occupants of seats therein, entitled to vote for church wardens and vestrymen in said church, to be certified by the Clerk of the vestry of such church; the said votes all to be given by a person representing such Church at the said election; and a majority of the votes so given, shall, in all cases, constitute a choice.

§ 2. The two church wardens and twenty vestrymen to be chosen as provided in the preceding section, shall first apply the sum of annually, to the proper maintenance and support of the parish of said Trinity church, and such further sums as may be needed from time to time, for the repair or renovation of its church edifices and their furniture; all which shall be disbursed under the sole direction and discretion of the church warden and ten vestrymen so to be chosen by the pew-holders and communicants of said church.

§ 3. The said vestry of Trinity church, to be elected as aforesaid, shall apply the income of the property of said church, and all proceeds of the sales thereof, to the payment, first, of the interest upon its debt and to the extinguishment of so much of the principal thereof, as they shall deem expedient, until the debt shall be wholly paid; and the residue of said income and proceeds to the support and extension of religion and religious education in the city and state of New York.

§ 4. The church warden and ten vestrymen so to be chosen by the pew holders and communicants of Trinity church and its chapels, shall exclusively possess and control the church edifices with their furniture and the church yards and cemeteries belonging to said church, and shall protect the same from trespass or aggression. They shall also exclusively choose the rector, assistant ministers and other parish officers, and with the concurrence of the rector, shall direct its religious services, and the disbursement of its charitable collections.

§ 5. Any vacancy occasioned by death, resignation, removal or otherwise, in either branch of the vestry mentioned in the first section of this act, shall be filled for the remainder of the year, by the remaining members of the branch in which such vacancy shall occur.

Mr. Noxon: Mr. Chairman:—Inasmuch as the substitute that is offered by the Senator from the 6th, does in effect, remedy in some degree what is claimed to be one of the greatest outrages ever perpetrated on personal rights, I do not know but that it will be acceptable to those parties in New York who have been injured by the act of 1814. If I understand the purpose of the substitute, it is that Trinity Church shall annually elect ten Vestrymen and one Church Warden, and that ten Vestrymen and one Church Warden shall be elected in the other parishes in New York, and that these Vestrymen and Wardens thus elected shall have the care of this great fund.

I care not, Mr. Chairman, how the object is ttained. I have no desire to press upon the Sente the particular bill reported by the Committee. only wish that the rights of the original cororators, taken from them by the law of 1814, hall be restored to them.

The Senator from the 31st has seen fit to say hat I have only touched the threshold of the egal questions involved in this discussion.— Sir, I call the attention of the Hon. Senator to he fact that he has only to read the charter and he subsequent laws to discover his error. The harter tells the Hon. Senator that this property n New York, granted in 1697, was granted to he use, of whom?—of Trinity Church?—Oh no! but as the charter says, (and there is no mistaking its language,) of those inhabiting and to inhabit the city of N. Y. in communion of the Church of England. Now I lay down the bold proposition that the language of the charter cannot possibly bear any other construction than that I have put upon it, and that it settles of itself all questions of law; and when I call the attention of my Honorable friend to the charter—to the plain declaration on its face—it is for him to answer if he has got any law to disprove it. It is not for me to produce law for that which on its face must directly carry conviction to every man.

But it does not stop at saying to whose use the property is dedicated; but goes on to describe who shall vote for Wardens and Vestrymen.

If I understand the charter, at page 9 it says there shall be annually elected two Wardens and twenty Vestrymen, and that those who vote for them shall be inhabitants of—what?—not of the parishes of Trinity or her chapels, but of any parish in New York, who shall be communicants of the Church of England. The subsequent act of 1784 says "in communion of the Protestant Episcopal Church." Now I ask the Hon. Senator in view of the grant, which is too plain to question, how he can say that I have only touched the threshold of the legal question?

Mr. Wadsworth: Will the Senator allow me one moment? I desire to direct his attention to the fact that this was a charter to build the first church and the first steeple in the city of New York.

It first makes reference to the minister. Secondly it alludes to the building of the church, and laying the foundation of the steeple Thirdly follows the royal grant of a certain church and steeple, with ground adjoining, &c. It then goes on with respect to expenses. A little lower down it speaks of the "aforesaid church." Lower still, of the Rector of the *aforesaid* church; making it clear that when it speaks of the inhabitants of New York in communion of our *aforesaid* church of England, it alludes to that single church to which the charter throughout has reference. It is in view of these facts that I think it would be well for the Honorable Senator not to jump so eagerly to the 9th page of the charter, but commence at the beginning, and he will then find that the words "in communion of our aforesaid church," alludes to Trinity church alone, as it alludes to one Rector and to one parish.

Mr. Noxon: I am very willing to be called out on that branch of the charter, because I have given great attention to it, and I think if the Hon. Senator had taken the same pains to understand it that I have, he would find that the first pages of the charter have no reference to the grant. The church was already built. The preamble recites what has been done. A minister had been sent into the country "for the cure of souls." After a time this church was erected, and after that, the then Governor of New York, who had interested himself much in the church, petitioned for the grant. Then comes the preamble in the charter, providing for a Protestant minister. There was in 1693 no minister in New York; but in 1697 there was. A little further on it recites the petition and then goes on to state the inducements for the charter. The grant itself is entirely distinct from this preamble. I tell the Hon. Senator that I have commenced at the commencement, and perfectly well understand what that grant is.

Mr. Wadsworth: If the Senator looks at page 11 he will find what that grant is.

Mr. Noxon: My attention is called to page 11. I must say that the Hon. Senator is wrong again. The allusion at that page is to the finishing, not to the erecting of the church.

Mr. Wadsworth: I was not wrong before.—The church was in process of erection.

Mr. Noxon: No Sir, it was finished. But the charter goes on to say what the name of the church is. Then comes the next question as to who was entitled to vote for wardens and vestrymen. The Hon. Senator says I do not go into the legal argument. Sir, I present facts—I present the grant, which says that the inhabitants of the city of New York of that faith shall vote.

The Hon. Senator in his opening remarks, has said that it is sought by the advocates of this bill to accuse Trinity of certain crimes. I can only say the charge is not the proof. The fact is, this belief has grown up in the mind of my honorable friend, and is without foundation.—The idea that they whose rights have been taken away by the law of 1814, and who desire that they shall be restored, would tear away the graves of Trinity, is simply ridiculous. There is no evidence on the point. But the Hon. Senator says that it is charged as a great crime against Trinity that she should preserve those graves — He also says that it is charged as a crime against Trinity that she will not sell St. John's Park.— I say that it was part of the original agreement that the park was to be sold; and yet the Hon. Senator says that the church merely fixed a price in order not to sell it.

I was a little astonished, Sir, to hear the Hon. Senator assert that it was charged as a crime against Trinity that she rebuilt her church. I said distinctly that it was an ornament and honor to New York to place the church there at that point. Not that I think there is any necessity to have it at the top of the money depot of the

city; for they are not the men who attend Trinity church, who hover about their money boxes in Wall street. Who are they then, that attend the church? The poor, in the lower part of the city. The rich inhabitants of Wall street attend the church edifices in the upper part of the city. But the Hon. Senator says the objection to the rebuilding of the church was because it was desired to divide up the property. Who proposes any such thing? Does the bill propose it? Does the amendment propose it? No such thing. There is no such proposition except in the imagination of those who suggest it.

Now how is this great fund governed, that was to benefit all the original corporators? By one hundred and fifty men. They are all that control the fund that was designed for the benefit of all in communion of the Protestant Episcopal Church, residing in the city of New York. And in what manner are their elections managed?

I call attention to the files, where the fact is shown that for years, less than thirty men have elected the Vestry.

Mr. Wadsworth: I have made the statement, and I repeat it, that any person who is a communicant of that church is entitled to be a corporator. Any Episcopalian may join the Parish and become a communicant if he please, and there is not an instance on record of a single communicant being refused his vote.

Mr. Noxon: I think there will be no difficulty in harmonizing the views of the Hon. Senator and myself. The pew holders of the church are protected. The act of 1814 protects them. I only make the statement that this fund is controlled by 150 men, instead of by the thousands of corporators who are dispossessed by the law of 1814; and that less than thirty corporators elect these Vestrymen who have endeavored to break down the committee in order to overrule and override the Senate of the State of New York.

I might stop here and ask one single question —why is it that there is such avidity, such greediness on the part of the Vestry to hold on to the power lodged in their hands by the law of 1814? The Hon. Senator from the 31st asks if Mr. Dix and Mr. Verplanck are to be impeached on this floor? No impeachment is brought against them! The charge is not that the fund is controlled by them. Indeed, they have resisted from time to time in the Vestry the acts of the Corporation. But the charge is that others hold on to, and administer the funds; and why is it that they so pertinaciously hold on to the church property and lease it out from year to year? Probably on account of some considerations not yet brought before the Senate. I surmise that in those same leases there is something that does not meet the eye. I fancy it may be found that some friend stands behind, in the back ground; some son, or father, or brother occupying this property and making a profitable thing out of these leases. I ask, what is it that should induce them to hold on to this property, unless something that the public can not see?

Mr. Wadsworth: Will the gentleman state the names of the Vestrymen he thus publicly impeaches?

Mr. Noxon: I impeach no man. I surmise these things—that is all. But can the gentleman inform us why it is that they thus hold on to this power to lease this property?

Mr. Wadsworth: We can read that in the evidence.

Mr. Noxon: The gentleman asks, if these original corporators are allowed to come in, would the ministers now at Trinity's altars be permitted to remain? I answer certainly they would, if they do their duty; but if not, they would be removed, as they ought to be. Is there no faith to be placed in the Protestant Episcopal Church outside of Trinity! Is all a mob beyond her parishes? Does the Senator tell me that the Protestant Church has fallen so low that her elections must be like the elections of the 6th Ward, and that her voters must be dragged to the polls with bloody noses, by the force of cudgels? I do not believe that the Senator will make any such impeachment of the honorable gentlemen who are here petitioning for this law.

Again, the Hon. Senator has said that I charge upon Trinity that she has done nothing for the cause of education. I do not think I made any such charge. I did certainly speak of what Trinity has done in the way of charity for her own poor. But when the gentlemen mentions her gifts to Columbia College, I would remind him that she has given nothing to that College since 1812. I do not deny that Trinity does much both for the city and county; but while I admit she does much, I do complain that she does not do half enough. While she is enriching herself by holding on to her property, she does not give away half enough. It can not be that the men who come here and desire to have their rights secured, are against the country: for they desire to increase the gifts, and consequently the usefulness of Trinity. My honorable friend says he is not an Episcopalian nor the son of an Episcopalian. I trust that being the son of an Episcopalian, I can speak more confidently than himself on this point. I know the character of the Protestant Episcopal Church; and I should be the last Senator on this floor to state that Trinity has not done much in every department of religion for the good of the church.

She has given to churches in New York; but the complaint is that she has given only feebly. She has only taken from her fund one quarter, when she might have taken one half.

But the question is not what Trinity gives or withholds. The question lies at the back of all that; because if the persons who claim to have been wronged by the act of 1814, really have rights and powers under the original charter, no power in the legislature of the state can deprive them thereof. I think that the question I started with *must* be met, and met fairly. To whom does this property belong? Does it belong to Trinity as a close corporation, sealed from the eyes of the corporators; or does it belong to the corporators themselves? If it does belong

to them, then again I say no power in this legislature can take it from them. Though the country should pour in her petitions by the basket full, are we to suffer such considerations to control us? Have we not the right to say that these beneficiaries in the original grant shall not be deposed, even if the restoration of their rights should tend to dethrone the present vestry of the church?

My honorable friend, in the course of his remarks, has declared that consecrated justice is on the side of Trinity. Where can it be found? In her one hundred and twenty-five corporators, who have wrested from the other corporators their just rights? Tell me not of consecrated justice from those who are steeped in iniquity!—Trinity church never had any right in the property she unjustly holds. Where is the grant giving her such right?

Mr. Wadsworth—It is in the charter. The charter gives her that right

Mr. Noxon—No, it does not. It gives it to the corporators, not to the church. The church usurps it, and yet the Senator talks about its consecrated justice. Consecrated justice! Why, I wonder that the embellishments that surround her churches do not cry out in judgment against her. Consecrated justice, in usurpation! Consecrated justice, in iniquity! Consecrated justice, in robbing men of their rights!

Mr. Wadsworth—Why did not these men exercise their rights, it they ever possessed them?

Mr. Noxon:—The Hon. Senator asks why they did not exercise their rights. Suppose any special right should be granted to him; the non-exercise of it would not invalidate it. There are rights of which no refusal to exercise can deprive men—the right of suffrage, for instance. Does not that right remain with a man, let him exercise it or not, until he goes down to the grave? I ask the Senator from the 31st if it would not be a bold proposition, should a man not exercise his right to vote, for 40 years, to challenge his ballot, when at last he came to offer it at the polls? And so of every other right, the exercise of which is voluntary and not compulsory. My Hon. friend has seen fit to liken these original corporators who came here asking for this bill to the Senate, should it go into the Astor House, and insist upon entering into a partnership in the property with its owner. Sir, I would ask him here, whether Mr. Astor would forfeit the rights he possesses in that property unless he should every day, or every week, or every month come and stand around the bar room and claim his rights? These men ask but the renewal of an original partnership, from which they never were dispossessed except by an unconstitutional law.

Mr. Wadsworth: If the Hon. Senator will allow me, I will ask him why, if this great wrong is really done to any corporator, he does not offer his vote at the annual election; and when his ballot is refused, apply at once for a *mandamus* and seek his remedy in the courts? Why have these men been thus wronged for one hundred and fifty years, when the courts are ever open, and Judges sit ever ready to protect the constitutional rights of the people?

Mr. Noxon: I will tell the Senator why. If the case was the case of a single individual there would be no difficulty about it. But it is not, and there are too many interested to make it practicable or advisable to go to the courts. Why it would be the delight of Trinity if eight thousand persons should each come into the courts, for Trinity church would enjoy the protracted law suits till the suitors all went down in the to grave. I say it is the right and duty of the Senate to interpose and protect the people of the state of New York from a litigation involving hundreds of thousands of dollars. The idea has long since been proposed by Trinity, that these questions should be tested by the courts of law, in order that she might string an interminable law suit along for years; but as soon as the injured persons come here for the redress that is their right, the cry of the church is that "it will produce litigation."

The Senator from the 31st says that he trembles for the Church and for the country if this bill should be enacted. Sir, I tremble for both, if this power thus consecrated to injustice is to rule the State of New York and her Councils. If this Corporation, created by the law of 1814 is to mould the legislature, as she does the Church, to her will. The manner in which she exercises and wields the power she does possess, is seen in every paper that has been laid upon our desks. I see that the Honorable Senator from the 27th in presenting one of the Memorials of these subsidized Country Churches, thought fit to say with emphasis that it was from a *low* Church.

Mr. Hale: I said from a Church low in funds, which had never received the bounty of Trinity.

Mr. Noxon: If she is low in funds then probably she is an applicant for that bounty. These churches do not come here on behalf of Trinity, unless some secret spring moves and controls their action.

Mr. Chairman, the Hon. Senator from the 31st was a little flighty in imagination, when depicting the serious consequences that would follow the passage of this bill. It does not appear to me that the matter should excite much feeling. Why, who are the corporators of the church now? Do they not elect the Vestry? What is to occasion this tearing down of the church—this division of family from family—this severing of friend from friend? The bill before us simply mentions the persons who, as communicants of the Protestant Episcopal Church in New York, are to be entitled to vote for Vestrymen of the church. And then what? Can the gentleman suppose that the Episcopalians in New York are so lost to a sense of justice as to elect annually to the positions of Wardens and Vestrymen such men as are fit only to be elected at the 6th Ward polls? Sir, I have more confidence in the Episcopalians in and out of the city of New York, as not to believe that they are men, as upright and honorable as any of those who appear here as the special advocates of

Trinity. Can it be possible, I ask, that the Hon. Senator believes the Episcopalians of New York would elect men who would not discharge their sacred trust faithfully and impartially? I think when he comes to reflect upon this subject more maturely, he will recall any such insinuation.

Mr. Chairman, the bill now under consideration does not, as I have said, alter the Vestry, but only says who shall elect them. Now, Sir, I think that if the citizens of New York, outside of Trinity, could have only a single member elected in that corporation, it would do much good. Just one—to act as a check upon the Vestry. But no; even that proposition would not be listened to by the church. The design is that the corporation shall be a close one; that neither the Rector, nor the Bishop, nor the corporation shall know anything of its acts. It controls the Conventions of the Diocese, so as to put into power High Churchmen only; and when it comes into the Legislature, it can be seen how entirely it controls the country church, I have said that the power of Trinity is unquestionably greater than that of any Railroad or Bank, or Insurance corporation in existence.—What other corporation is there, I ask, that can do as this one has done? She has poured in memorials upon us, as if wires, attached to every clergyman in the State, lead into the green room of her Vestry, and she had only to pull them in order to work her will. Not five days had elapsed when we found these memorials pouring in from churches in every part of the State of New York.

From all portions of the State come these remonstrances against the Senate's touching Trinity, because, forsooth, she is so sacred in the eyes of the country churches!

Mr. Wadsworth: It is the natural attachment of a child to its parent.

Mr. Noxon: The Senator says it is the natural attachment of a child to its parent. I ask him what does that parent do to her other children in the State of New York? And who are these children who are coming here and displaying so much fondness and affection for their old mother church? Who, but those who are receiving or expecting bounties from her, or over whom she holds mortgages which she could foreclose, if she pleased, to punish them for neglecting her wishes?

But, Mr. Chairman, it is not true, but a fiction arising in the fancy of my Honorable friend, that the money of this church is to be confiscated—the church to be torn down—the graves to be violated—and the whole property scattered to the four winds, by the vestry to be elected under the provisions of this bill. It is a dream of the church, which I am sorry to say my Honorable friend has expressed here as a waking dream, and not a sleeping dream.

I say it is a matter of impossibility to suppose these thing probable, because when I mention the names of Luther Bradish, Cambreling, Winston, Brown, Minturn, Cooley, Jay, and Wolfe, the men who are accused of desiring to thus dismember Trinity, every one must admit that they stand too high in the city of New York to be reached even by the flights of fancy of my honorable friend, who, in the exitement of debate made this charge against them.

Mr. Wadsworth:—I ask the Senator if he does not think these gentlemen must have been a little excited themselves when they declared that there was in the church property "enough for all?"

Mr. Noxon:—Well, let us see what those words mean. I call attention to the charge, and then to the following card, which I will read, and upon which it is grounded:

NEW YORK, March 23, 1857.

To the Editor of the Gospel Messenger, Utica, N. Y.:

SIR—In your comment of Friday last upon our "Statement and Declaration," as the Executive Committee appointed at a large meeting of the inhabitants of the city of New York in communion of the Protestant Episcopal Church, in regard to the affairs of Trinity Church, you do us great injustice in stating the object of our movement to be that the funds of the Church, shall hereafter be applied *"to city churches only."* No such restrictive phrase has ever been used by us, or was heard at the meeting which appointed us, or has found expression in any of our more informal conversation, on the subject; and so far as we know, there is no restrictive design or desire cherished by any of ourselves, or of those who act with us in this matter. This charge, at which we now reply, has been from the first on altogether gratuitous injustice to our motives—which we have always repudiated as utterly unfounded. There is no reason why we of the city should have any desire to diminish, in any way, the aid hitherto extended to the country; for we believe, and it has been proved, that there is enough for all; and our desire is that all may impartially participate therein.

L. BRADISH, ROBERT B. MINTURN
S. CAMBRELENG, J. E. COOLEY,
F. S. WINSTON, WILLIAM JAY,
STEWART BROWN, JOHN DAVID WOLFE.
Committee.

Now, what do these gentlemen mean by saying that there is "enough for all?" Simply that there is enough in this great fund of Trinity church, to aid not only the city, but the country churches as well. What does the Senator mean by stating that these persons are acting against the country churches, and in the same breath finding fault with them when they say there is "enough for all" these churches? I repeat, Mr. Chairman, what I have before stated, that the charge is entirely groundless that these men are unwilling that Trinity's fund should aid the country churches. I repeat that they give more annually out of their own means to the country churches, than Trinity herself gives; and I say that it is to prove their desire to assist the country churches that they use in their card the words so offensive to the Senator from the 31st—"there is enough for all."

At the conclusion of Mr. Noxon's remarks the committee rose, the substitute was ordered printed, and the bill was made a special order for Tuesday evening at 7 P. M.

IN SENATE....March 31—7 P. M.

The special order being announced, Mr. Darling resumed the chair, and stated the question to be on striking out the enacting clause of the Trinity church bill.

Mr. Noxon.—Mr. Chairman: I withdrew that motion, in order that the amendment of the Senator from the 6th might be before the committee.

The Chair.—The Senator is correct. The question is, therefore, on the substitute for the bill of the committee, offered by the Senator from the 6th.

Mr. Noxon.—Mr. Chairman: I desire to call the attention of the Senator from the 6th to the first line of the 3rd section of his substitute, where the words "the said Vestry of Trinity church," should read "the said Warden and Vestry &c."

Mr. Brooks.—I am aware of the amendment needed, and it is my intention to associate the Rector, with the Warden and Vestry. I shall move the amendment, Mr. Chairman, at the proper time.

Mr. Ramsey then obtained the floor. He said:

Mr. Chairman: After the able manner in which the question before has been argued on the part of the Committee, it is not proper nor necessary to go over the whole ground again; as any remarks I might make would necessarily in a great degree be nothing more than mere repetition. The question presenting itself is of very considerable importance. It is a question that has already excited and is still exciting public interest to a great extent; and it certainly is desirable on the part of this body to arrive at a correct conclusion in relation to this subject. So far as the Committee is concerned, as has already been stated, they have occupied considerable time in investigating this matter, and have presented, under circumstances which have been explained, two different reports in which their views of the matter are presented.

To my mind, Mr. Chairman, all there is in this question is contained withing a small compass; and although extraneous matters are brought forward for the purpose of producing an effect, yet the real points at issue between the parties are embraced in a very small compass. It seems to me that if the question legitimately before this body is passed on without reference to extraneous matters, there will be no difficulty in arriving at a correct and speedy conclusion.

The first and most important question is, as to the legal merits of the question—as to the legal rights of the parties concerned in this matter. It will not be disputed that previous to the year 1814, the original charter, and the subsequent acts of the Legislature giving construction to that charter and amending it in several particulars, were clear and explicit, so far as the grant of this property was concerned.

There can be no question as to who the beneficiaries were under that grant. The language is too clear to admit of any doubt. It was to the the rector, and inhabitants—in the language of the charter—of our said city of New York, in communion of the Church of England, as by law established. It expressly embraced all inhabitants from time to time inhabiting, and to inhabit the city of New York. Now, there can be no doubt that this grant was originally made for the benefit of the inhabitants of the city of New York in communion of the Protestant Episcopal Church.

The difficulty has arisen from the change which time has produced. In going back to the time of the original grant, we find that New York was a mere huddle of buildings. It increased. Trinity was the first church established there. She afterwards organized her chapels, and up to 1814 Trinity church and her chapels were able to accommodade nearly, if not quite all the members of that church. But in 1814 the act was passed which created this difficulty. By that act, the corporators, or those interested in the funds—the beneficiaries were cut off. I know it is said that previous to that time they never exercised their rights. But by looking at the history of the matter it will be seen there was no occasion to exercise those rights. But it appears that shortly before 1814 there *was* an attempt to exercise their rights, and Trinity, foreseeing the difficulty—as she then viewed it—that might arise, came to the legislature and obtained the act which cut off all the Episcopalians from their right as voters, except those of Trinity parish. There cannot be a question of these facts. If that was not the object of the act, why was it obtained? But at that time, as has already been stated, there was much difficulty in relation to the act. Some of the ablest jurists in the State were of the impression and belief that it was unconstitutional, and those gentlemen composing the Council of Revision, occupied the position which has been named.—Among them was Chief Justice Spencer and others. But the act was passed. It appears also from the journal, that it was passed through with rather a rapid vote, and that there were protests at the time against the act. But Trinity, with her wealth and influence, at that time accomplished her purpose.

Since that time, no other corporators except those residing in Trinity parish, have exercised this right of voting at the Vestry elections of the Church.

Now here is a simple proposition involving a question of right and wrong; and I hold that in disposing of this matter, although Trinity might be willing to lavish on other parishes of the State half her wealth, if the act of 1814 cut off other corporators from the right of participating in this fund, it is the duty of the legislature to restore to those corporators their equal and just rights. I submit whether there can be any question, taking into consideration the language of the charter and the subsequent acts, and then taking into consideration the object of the passage of the act of 1814 and its effect, that there was a great wrong committed by that act.

I hold, Mr. Chairman, that we ought not to stop here to calculate what all these corporators

would do with the property, or whether the beneficiaries would or would not control the fund discreetly. It is not a question of expediency, but of right and wrong. It is simply for us to enquire whether we shall do justice to the original corporators by permitting those intended in the original grant, to control the fund, or whether we shall deny them that right.

Mr. Chairman, to my mind, if ever I sat down to investigate any subject without predilection or prejudice it was this very question. It is a question that to my mind is too clear to admit of any doubt as to the construction of the language used in the original charter and the subsequent acts, and of the effect of the act of 1814; and the fact being established as to the right of all the Protestant Episcopalians in the city of New York to share in the benefits of this fund and to control it, the effect that is to be produced by the modification of the law of 1814, and the question as to whether the fund will be properly administered in the hands of those whose rights are to be restored by the bill before us, are questions entirely outside the real merits of the case.

I am aware, Mr. Chairman, that throughout the country, and particularly out of the city of New York, there is considerable feeling upon this subject. But what is the cause? Because it is represented that the Episcopalians out of Trinity's parishes in the city of N. Y., wish to control this fund for their own benefit, and to cut off the country churches; and if the act we propose should take effect, they will not only be entirely cut off from all further participation therein, but be called upon to pay the mortgages already given for grants previously made. As I said before, even admitting this to be so, it does not weigh a feather in the scale of justice in this matter. If this fund belongs to the Episcopalians of New York city, they have a right to control it. whether they give one dollar to the country churches or not. But, sir, I do not believe the law proposed would have any such effect. I believe the country would continue to receive as much, and probably more than at present. If we consider the whole amount of property possessed by Trinity, the portion she distributes in the country is a mere crumb in comparison to her vast wealth.

But, Mr. Chairman, it is said that this movement against Trinity is of a Vandal character; that it is designed to affect the rights of property; that its object is to destroy the rights of Trinity Church and to scatter its property to the four winds. Sir, I do not understand that to be the object or the effect of the proposed repeal at all; but on the other hand I do believe it would have a directly contrary effect, and would increase the efficiency and usefulness of the fund. The present number of the corporators has already been referred to—the number of those who have control of the affairs of the corporation. Now what is proposed by the bill under consideration, is simply to extend the right to all those entitled to it under the original charter. But it is urged that this would produce very great confusion; that it would lead at elections hereafter to riot and difficulty; that if this section of the act of 1814 be repealed, the elections of the Church will in future resemble a mob more than any thing else; and they have been compared with elections in the 6th Ward of the city.

Mr. Chairman: I was astonished and surprised to hear any such language and allusions used towards Episcopalians outside Trinity in the city of New York. Does the Hon. Senator from the 31st mean to say that the Episcopalians outside Trinity are not men of as high character and as capable of discharging the sacred duties of this trust as are those who reside in Trinity Parish? Are they not men as devoted to the great interests of the Church; as high toned in all their religious notions; as high toned in morals, and with as much regard for the interests of religion as those who happen to be within the pale of Trinity? Where is the man that will get up and assert to the contrary?

Then I ask what is the danger, laying aside the question of right, and viewing it merely as a matter of policy, what is the danger of admitting Episcopalians outside of Trinity Church in New York, to the enjoyment of their legal and just rights? Clearly none; and by adopting the amendment proposed by the Senator from the 6th, it appears to me that every objection that is urged will be obviated. Its provision would create entire harmony in the church, by giving to those entitled to them their rights. But I ask how Trinity church can ever expect to prosper, and to gain that christian feeling, respect and good will from the city of New York and from the whole country, with this great wrong resting on her, of having cut off and disfranchised those having the same rights as corporators with herself. Sir, I have no doubt the present vestry, the great sticklers for Trinity, will in the end be convinced that what we propose is all for the best; and that when they look calmly at the question, they will come to the conclusion that the repeal asked for will heal these unhappy dissensions, and advance the true interests of the church.

Mr. Chairman, it has been said that the object of those now seeking the repeal of a portion of the act of 1814 is, to disturb the ashes of the dead in the grave-yards of Trinity, and to open streets through her property. Why, Mr. Chairman, it is a gross libel, I am satisfied, on the high-minded, honorable men who are here asking the repeal of the act of 1814; and I think the honorable gentlemen should not charge them with motives of that kind, unless he has better evidence than any that appears before the Senate.

It has been charged also that those moving in this matter are the "speculative philosophers of Wall street," and that their object is to scatter the church property, in order that they may have an opportunity to obtain some of it; that, in fact, it is a sort of stock-jobbing operation.

This, in my opinion, is equally unjust, and I am surprised that the Hon. Senator should feel called upon to make any such charge. The character of the men who ask for this repeal is

ar above suspicion in any such respect as that; and the insinuation as to their motives is entirely without foundation. It has been charged also, as I have said, that this is an attempt to interfere with the sacred rights of property; that the object of those asking this repeal, is to deprive Trinity of her property and to despoil her of what rightfully belongs to her. Sir, the fact is the direct reverse of this. The purpose of the bill is to give to those who have been deprived of them, their just rights. Its object is simply to restore to the original corporators of the church their original rights. Talk of violating the sacred rights of property! The sacred rights of property *were* violated by the law of 1814, and that is what we are called upon to repeal; and I ask if we ought not to do it? By so doing we respect the rights of property; and I have no fear but the corporators will discharge their duties, and that, too, with entire devotion and honor.

But we are asked, Mr. Chairman, who constitute the present Vestry? Are they not responsible, high minded men? Why, sir, no one is disposed to charge the present Vestry with intentional wrongs. They may believe that it is for the best interests of the church, to have the fund controlled by them; that by permitting the corporators entitled to participate in the fund to do so, a great wrong would be done to the Church, and that the original corporators are not as capable as they themselves are, to administer the sacred trust. Now the whole argument lies in this if this: Vestry are not entitled to administer that trust—if others are entitled to participate in it—then they should give way, and let all those have a voice in its management who are entitled to a vote under the original grant.

I have no doubt, though it has been said that the bill before us will let loose upon the church six thousand corporators, the Episcopalians of New York will appoint a vestry who will discharge the duties of the office as much to the best interests of the church and of society at large, as do the present vestry of Trinity Church. There is no necessity to charge that vestry with wrong. I do not intend to do so. I believe them to be high minded, honorable men; but that is no reason that the corporators outside of Trinity parishes should be cut off from their rights. It has been asked why these corporators do not resort to the Courts, and it has been answered that it would be not like one, or two, or three dozen individuals going into the Courts against Trinity Church. A warfare of that character would be any thing but even handed. Besides, we have nothing to do with the question as to why law suits are not commenced and individual rights sought in the Courts. The simple question for us to consider is, have the original corporators been deprived of their rights; and if so, then the duty rests upon us, as far as we can do so, to restore those rights.

Mr. Chairman, I have no disposition to take up the time of the committee unnecessarily on this subject. The question has been very ably presented in all its forms and details, by my associate on the committee. All I ask, as one of the members of the committee is, that the question may be passed on by the Senate without regard to anything but the merits involved in the controversy. I only ask that all extraneous matters may be laid aside, and particularly those which refer to the unnecessary alarm of the country churches. I am aware that a strong outside pressure has been brought to bear on members of this Senate in favor of Trinity. I know that memorials have been presented, and doubtless signed in good faith, by hundreds and thousands of individuals, under the impression that Trinity was to be violated, and the country churches cut off from the stipends they have heretofore received.

Mr. Chairman, so far as the Country churches are concerned in this matter, it is of but very little consequence in deciding on the real merits of the question whether they will suffer or not; and I ask where is the Church in the country that would ask us as legislators to do that which we believe to be wrong, simply that she might receive a larger stipend? Now I do not believe that feeling exists in any Protestant Episcopal Church in the State. I do not believe that they would ask us to do an injustice, that they might receive more money. They have too much christian charity—they are too high toned in their morality and too faithful and pure in their religion to descend so low. But as I have said before, instead of the stipends of the Country churches being diminished, I believe they will be increased, while at the same time that harmony will be restored in the Church, which never can exist while this great wrong is suffered to remain. Let right be done—let justice be done—and I have no doubt the country will retain all she has heretofore had, and gain much more.

Mr. Sickles: Mr. Chairman, I desire to be heard by the committee on the subject at present occupying its attention, but I have understood that the time this evening was to be consumed by a Senator not now in his place, and who I learn is unavoidably absent through sickness in his family. With a view of doing justice to that gentleman, therefore I now move that the committee rise and report progress.

The committee then rose, and the bill was made a special order for Wednesday evening at 7 P. M.

MR. HALE'S ARGUMENT
FOR THE CHURCH.

IN SENATE.....April 2.

Mr. HALE spoke as follows:

Mr. Chairman—In addressing the committee on the momentous question now pending before it, I shall endeavor to discharge the duty involving upon me in as brief a manner as possible. The immediate point for determination, is that in relation to the substitute offered by the Hon. Senator from the 6th, for the bill reported by the special committee having in charge certain matters pertaining to the parish of Trinity Church, in the city of New York; and which necessarily involves the whole question at issue; and in which light I shall view it in the remarks I propose to make for the consideration of the committee With the mere questions of fact, involved in the voluminous evidence taken by the special committee and reported to the Senate, I shall have little or nothing to do; for the simple reason that the whole matter as I conceive it to be, is rather one of law than of facts, and in this view of the case, I am happy to find the Hon. Senator from the 22d, Mr. Noxon and myself occupying the same general ground. The Senator in addressing the committee a few days since on this subject of Trinity, used the following language, and to which I call the attention of the committee.

"Mr. Noxon looked upon the repeal of the act of 1814, more as a question of law than fact. He did not look upon the mass of the testimony as bearing upon the real questions before the Senate. He did not think the manner in which Trinity church had exercised the power she now enjoyed had much to do with the question to be decided by the Senate."

This view of the case taken by the Hon. Senator, is certainly correct; and, hence, it is not a little strange, that in the lengthy remarks which the able Senator has submitted for the consideration of the committee, he should have given far more attention to the questions of *fact*, than of law. Were the Senator unlearned in the law, this inconsistent course of the senator might be excused, but, standing as he does, at the head of the legal profession, chairman of the judiciary committee of this body, it is strange indeed that he should have treated the question as he has after such an admission.

Upon this view of the case, there has been a concurrence of opinion, whenever the subject has been before the Legislature. In 1846 a memorial was presented in behalf of certain Episcopalians of the city of New York, belonging to other parishes, complaining that the officers of Trinity church excluded them from the right of voting, &c., and asking for the repeal or modification of the act of 1814. This petition was presented to the Senate, and the committee to which it was referred, reported adversely to the prayer of the memorialists, Mr. Clark, a member of the committee, however, making and presenting a minority report. In this report of Mr. Clark he nevertheless states distinctly, that the question *is one of law*, and as such should be left to the courts. On this point he holds the following language:

"If the memorialists possess the rights that they claim, they should be left to assert and vindicate them in a court of justice, since it is the exclusive province of a court of justice to establish the validity of their claims."

In the succeeding year—1847—Trinity was again dragged before the Legislature, her opponents presenting their memorial at this time to the Assembly, and when the matter was referred to the judiciary committee, and which on the 30th day of March reported unanimously against the petitioners. In this report the committee take the same view of the case in relation to its legal bearings, as had been taken previously. The committee says:

"It must be manifest that any action whatever on the subject by this Legislature, must be in effect, a decision upon the various complicated, and some of them difficult questions, which have been presented by the parties, and most of which have been stated in this report, and particularly the constitutionality of the act of 1814. Your committee can not discover on what grounds the parties have a right to require that the decision of these questions should be transferred from the appropriate tribunals, constituted for the express purpose of determining them, to a legislative body created for purposes entirely different.—There is no question of public policy involved, nothing effecting the interests of the state or its citizens at large, but a contest merely between one set of men who claim a right as corporators, and another set who deny that right. The Legislature is not the tribunal created under the constitution to settle and determine private rights; and the attempt to do so would be as unwise, if not unconstitutional, as it would be disastrous in its consequences."

Such being the true state of the case why is it, Mr. Chairman, that this question is now engrossing and deeply agitating these halls of legislation? Why should the matter be considered here, belonging as it does to courts of law, rather than to the halls of legislation, and where the question must ultimately be settled if settled at all? To such an adjudication Trinity church makes no objection whatever. On the contrary, she courts the investigation, and had it been in her power to have settled the controversy by the judgment of the courts, it would have been done long ere this. Trinity, however, can not litigate with herself, nor effectually as plaintiff with the pretended corporators of other parishes in the city of New York. With these corporators, however, the case is widely different. If they really desire an honest and final settlement of the question, there are no difficulties whatever in the way. Let one of them, whose vote is rejected at the annual election for wardens and vestrymen, bring his action for thus being excluded, and the whole question is at issue, and in less than one year can be forever set at rest. Trinity

will throw no obstacles in the way of a solemn and speedy adjudication of the whole matter.—It is said, however, when this course is pointed out and urged upon the opponents of Trinity, that she is rich, and that no one individual can sustain a law suit with her without being eventually ruined. This objection is a mere subtifuge, and shows conclusively the dishonest purposes of those who make it. Have they not thousands and thousands to spend in besieging the halls of legislation, in paying numerous hired lobbies and eminent counsel? It is said that there are now eight thousand disfranchised corporators, and who feel keenly the *monstrous wrongs* inflicted upon them by Trinity church. If this be true, then undoubtedly, such are willing to contribute a few dollars each to have these *monstrous wrongs* annihilated, and in which case all the necessary funds to carry on a law suit would be at hand. The fact is this cry of inequality on the score of means to litigate the question at issue, is all moon-shine, and only made to cover the real objects in view. This is the more apparent when it is considered that the Code of procedure has ample provisions for delivering all the material allegations made against Trinity, by an action in behalf of the state, and in which case the attorney general would have in charge the rights of the pretended corporators. If then litigation is avoided on account of the expense, why not take the steps pointed out in the code, and have the state of New York the plaintiff against Trinity? Mr. Chairman, I will answer the question. It is because these men well know that in a court of law or equity, they have not even a ghost of a chance. They know full well that the law and equity of the case is all on the side of Trinity, and hence, their only hope is to come some sly underhanded "*grab game*" thro' the halls of legislation.

One word Mr. Chairman in relation to the manner in which this question has been sprung at this time upon the legislature, and I have done with this branch of the subject.

On the very heel of the session of 1855, certain resolutions of enquiry were introduced into this branch of the legislature, addressed to the vestry of Trinity church, and requiring an answer thereto on or before the seventh day of January, then next. Why these resolutions were offered does not appear. There had been no previous agitation of the matters of Trinity during the session, no petitions presented praying for an investigation. *Ostensibly* no one outside the Senate had called for the information required by the resolutions.

During the session of 1856, the vestry of Trinity reported, and it was—to use the language of the honorable Senator from the 22d—"*by way of filling up a gap which had been left by that church unanswered*" that the special committee of the last session was appointed.—Not because such a committee was particularly called for outside of this body, but to fill up a "gap." And, Sir, it was not until the special committee had made their second report, and introduced their bill to amend the act of 1814, that one single petitioner from the *injured* corporators of New York city is placed upon your desks. Why this anomalous course—this singular course of procedure? In 1846 and 7, when the subject of Trinity was before the legislature, her enemies came up openly and above board, and asked for the repeal of the act of 1814. Not so now, however, and the whole history of the present legislative action, indicates a new species of tactics—"*a new hand at the bellows*"—some wiley politician grown fat upon schemes of legislative plunder. Enough, however, on this point. I proceed to another.

Mr. Chairman—I have at the commencement of my remarks, laid down the proposition, that the only material issue in the question now before the Senate, is one of law, and not of fact. And I have shown that in this view of the case there is a concurrence of opinion among the friends and enemies of Trinity. Here then is *one price* common ground for all—a conceeded starting point in the all important investigations before us.—And if, indeed, the voluminous evidence reported to the Senate, has little or nothing to do with the real question in hand, then this whole matter is almost within the compass of a nut-shell. It is simply this: who are the present legal corporators of Trinity Parish, and as such, duly entitled to vote for wardens and vestrymen at her annual elections? This is the true question, Mr. Chairman, and which I will now proceed to consider.

There is, however, one question of fact in the case, and about which there exists no difference of opinion, and to which I will refer in passing, viz, that at this time there are in the city of New York, some fifty protestant Episcopal churches besides Trinity and her chapels; and that these different churches are entirely independent of her in all respects, as much so as that of any other church of the same diocese, each parish having its own rector, wardens and vestrymen, and that the vestry of Trinity Parish claims no power or right whatever to control or interfere in the parochial affairs of these numerous independent churches, and that those who claim the right of voting at the annual elections of Trinity, are persons belonging to these independent parishes, and having no parochial relations whatever with the parish of Trintiy church.—Now, this, Mr. Chairman, is the whole case. On the one hand it is contended that at the present time, every inhabitant of the city of New York, in communion with the Protestant Episcopal church of England, although having no parochial connections whatever with the parish of Trinity church, but on the contrary, belonging to some one of the fifty independent Episcopal churches of the city, is, nevertheless, a corporate of Trinity Parish, and entitled to vote at her annual elections for wardens and vestrymen.—This proposition of course Trinity denies, and this is the question to be decided. Before coming directly to the points at issue, however, I should like to propound a few questions to my honorable friend from the 22d, and to which I

desire an answer, if the Senator has no objection.

First: "Was it the original design of the royal charter of 1697, in incorporating the parish of Trinity church, that all the inhabitans of New York city in communion with the Protestant church of England, should be voters at the annual elections of Trinity Parish?"

Mr. NOXON: I answer yes.

Mr. HALE: The honorable Senator answers in the affirmative. I am of the same opinion.

Second: "Was it the design of the royal charter that all the subsequent inhabitants of New York city in such communion, should like the original corporators be voters at the annual elections of Trinity, without any further qualification or action on the part of the vestry?"

Mr. NOXON: Yes.

Mr. HALE: "Was it the original design of the charter that none but such as belonged to Trinity Parish, should be corporators and voters at her annual elections?"

Mr. NOXON: No.

Mr. HALE: "Was this ever changed?"

Mr. NOXON: Yes; by the act of 1814.

Mr. HALE: The honorable Senator having with great frankness answered the several questions which I propounded to him, I will now, Mr. Chairman, come to the royal charter of 1696. As is well understood by Senators around this circle, from the remarks already made in committee, that at the time when this franchise was granted by the crown of Great Britain, the inhabitants of New York city had erected and partially completed, a church edifice on Broadway, at or near where the magnificent structure of Trinity now stands. The royal charter recites this fact among several others, and then at line 118, ordains as follows:

"*Now, know ye* that in consideration of the great charge that our said trusty and well beloved subject, Benjamin Fletcher, our Captain-Generall, as aforesaid, and the rest of our aforesaid loving subjects, inhabitants within our said city &c., have been at in the erecting of the said Church, and laying the foundation of a steeple, and the further great charge that must unavoidably acrew for the finishing the said church and steeple, and the providing it with suitable ornaments as also for the erecting and providing a house neere the said church for the habitation of a minister to officiate in the said church in manner aforesaid, as well as of our pious inclinations to promote, propogate, and encourage all our loving subjects within our said province in that reverend and Godly duty, in worshiping and serving God according to the commendable rites and ceremonyes of our Protestant Church of England as now established by our laws, have therefore thought fitt, and do hereby publish, grant, ordaine, manifest, and declare that our Royall will and pleasure is, and by these presents do, grant and declare that the aforesaid church, erected and built as aforesaid, scituate in and neere the street called the Broadway, within our said City of New-Yorke, and the ground thereunto adjoining, inclosed and used for a Cemetery or Church yard, shall be the *Parish Church* and *Church yard of the Parish of Trinity Church*, within our said city of New York, and the same is hereby declared to be for ever seperated and dedicated to the service of God, and to be applyed therein [thereunto] to the use and behalfe of the inhabitants from time to time inhabiting, and to inhabit, within our said City of New York in communion of [with] our said Protestant Church of England as now established by our laws, and to no other use or purpose whatsoever, any statute law, custome, or usage to the contrary in any ways notwithstanding. And that there shall be a Rector to have care of the souls of the inhabitants of said Parish, and a perpetual succession of Rectors there."

From this portion of the charter several important facts are clearly seen.

First: That the church on Broadway was the parish church, and church-yard "*of the parish of Trinity church*," and that said church was to have a rector, and but one rector, with a perpetual succession of rectors there; and that that one rector was to have the *care of all the souls of the inhabitants of the said parish*.

Second: That the said church and church-yard, and the rector of the parish were created for the spiritual good of all the inhabitants of Trinity Parish, inhabiting "*from time to time the city of New York, and in communion with the Protestant church of England.*"

I now call the attention of the committee to a further extract from this royal charter commencing on line 255.

"And further we will and ordaine, and by these presents do declare and appoint, that for the better ordering and manageing of the affairs and businesse of the said Corporation; there shall be annually and once in every year forever on the Tuesday in Easter week two Church Wardens and twenty Vestrymen duly elected by the majority of votes of the inhabitants of the said Parish in communion as aforesaid."

One fact is sufficiently evident from this part of the charter, viz, that the church wardens and vestrymen were to be elected annually by *the inhabitants of the parish and by no others.*

I now read further from the charter, commencing on line 493.

"And moreover of our special grace certaine Knowledge and meer motion, We do give grant ratify and confirm unto the said Rector and inhabitants of our said City of New-Yorke in communion of our Protestant Church of England as now established by our laws that the said Church and Coemetry of Church yard scituate lying and being within our said City of New-Yorke as aforesaid, *shall be the sole and only Parish Church and Church yard of our said City of New York.*"

From this impartial extract the fact stands out clear and conclusive, that in accordance with the laws and usages of the crown governing the English church, only one parish was contemplated, and intended by the royal charter of 1697,

for the whole city of New York, and that that parish was the parish of Trinity church.

Mr. Chairman, I would here say a few words on the meaning attached to the word "parish." Mr. Wise, a writer on this subject, defines a particular church to be "a society of Christians meeting together in one place, under their proper pastors, for the purpose of religious worship, and the exercise of religious discipline—united together by covenants."

Chief Justice Parker in the case of Baker and others vs. Fales, says, "that a parish is the same with a particular church or congregation. A whole diocese is one parish, if not exceeding, in ancient times, the bounds of a parish or small town, or a part of a town."

From these extracts which I have made, the following facts seem to be indisputable.

First: That the charter contemplated and intendened that there should be but one parish in the city of New York.

Second: That the church "*situate in and near the street called the Broadway*," is "*the parish church*," and "*the ground thereto adjoining*" is "*the church-yard of the parish of Trinity church.*"

Third: That there should be a rector and but one rector for the whole parish of Trinity church in the city of New York, and that such rector should have the "*care of all the souls of the inhabitants of the said parish;*" and that the said parish of Trinity church was to have one set of wardens and vestrymen, and no more.

Fourth: That these wardens and vestrymen were to be elected annually, "*by the majority of the voters of the inhabitants of the said parish.*"

And from all which it necessarily follows, that to constitute a legal corporator of Trinity parish, so as to vote at her annual elections for church wardens and vestrymen, as required by the charter of 1697, the following qualifications were indispensable.

First: The individual claiming the right must be an inhabitant of the city of New York.

Second: He must be in communion of the Protestant Episcopal church of England.

Third: He must belong to the parish of Trinity church.

Fourth: He must be under the *immediate* charge of the rector of the parish of Trinity church, who alone according to the charter, was to have the care of the "*souls of the inhabitants of the said parish.*"

But, to use a syllogystic mode of reasoning, these pretended corporators do *not* possess these qualifications; and hence the conclusion is irresistible, that they are *not* entitled to vote at the annual elections of Trinity.

Do they belong to Trinity parish? Do they worship in Trinity or any of her chapels? Do they give for the support of the charities and schools of Trinity parish? Do they contribute for the maintenance of the rector and ministers of the parish? Are they pew owners or holders in Trinity or her chapels? To each and every one of these questions there is but one answer, and that answer an emphatic negative. Why then should these individuals claim the rights of corporators? Why claim the right of voting at the annual elections of Trinity parish in New York city rather than the right of voting at the annual elections of St. Peter's church in the city of Albany, or the right of voting at any or all the annual elections of the numerous churches in this state? According to my view of the case the one is not more preposterous than the other.

But say these pseudo corporators, are we not inhabitants of the city of New York, and in communion of the Protestant Episcopal church of England? And does not the charter expressly ordain and declare, that Trinity church and church-yard were forever separated to the service of God, and forever dedicated to the use of the inhabitants of the city of New York, in communion of the Protestant church of England? Are we not then, corporators, and voters, by the express provisions of the charter? Certainly! *provided, always*, that you belong to the parish of Trinity church, and acknowledge her venerable rector as having the care of your souls, and which, not being the case, then gentlemen, you are *not* corporators of Trinity parish —and you are *not* entitled to vote at her annual elections. It seems to me, Mr. Chairman, that there is no escaping from this conclusion, and that the proposition is so clear "*that the way fairing man though a fool need not err therein.*"

That it was the original intention of the charter, that the parish of Trinity church should comprise within its fold all the inhabitants of the city of New York in communion with the Protestant Episcopal church of England, I have no doubt whatever; and as the city increased in numbers so that one church edifice would be insufficient to accommodate the parishoners of Trinity, that this inconvenience should be remedied by the erection of chapels of ease at different points throughout the city; and to a certain extent this original idea has been carried out by the erection of chapels belonging to the parish of Trinity church. Each of these chapels having its ministers, but no separate independent organization —without wardens and vestrymen, except those of Trinity parish alone; and their respective congregations being "inhabitants of the city of New York and in communion with the Protestant Episcopal church of England," were parishioners of Trinity, and as such corporators and entitled to vote at her annual elections.

After the establishment of a new order of things growing out of the war of the revolution, certain inhabitants of the city of the Episcopal church, formed under the general laws for that purpose, several new parishes, entirely distinct and independent of Trinity church, and to which Trinity interposed no obstacles whatever, and which have been increased from time to time until they number at this moment some fifty parishes, with their rectors, wardens and vestrymen, and having an aggregation of eight thousand or more communicants, and who now claim the right of voting at the annual elections of Trinity parish,

besides the indisputable right of voting, &c., at their own respective parish meetings.

This proposition is not only absurd on its very face, but contrary to the laws and usages of the church, and the decisions of our courts of law. On this point the learned counsel of Trinity, before the Senate committee, well remarked as follows:

"It is an established rule of the English Church, that a person can be a parishoner in but one parish. By the 28th canon of that church, unless he be a wayfarer or traveler, he is not entitled to partake of the communion except in the parish to which he belongs, though it is in the discretion of the pastor of another parish to admit him. This same rule governs every Episcopal Church in this country, as will be seen by reference to the 13th Canon of the American Church; and it must be conceded that such a rule is indispensable to Church discipline, and must be maintained inviolable. Surely the English Government will not be supposed to have been willing to violate, by any charter, so well settled and salutary a principle of its own established Church; and no strained construction should be put on a charter, to give it a meaning so repugnant to the probable intent of the government granting it.

So too in this country, where every form of religion is fully and equally protected, the government will not be supposed to have intended to make an exception to its beneficient rules of toleration, in singling out this particular Church as an object of unjust discrimination, and despotically to say, it shall not be governed according to the established forms and usages of its faith, by a vestry chosen by its own pewholders and communicants, but may be governed by a vestry chosen by the votes of those who do not worship within its walls, or kneel at its altar; by those who are members of other religious corporations, and aliens to this. Will the law deprive the parishoners of Trinity Church of the rights enjoyed by every other Church in the State of every denomination, that of chosing its own officers? *It would be a deprivation of the right of self government.* A vestry chosen by the votes of those who are members of other religious corporations would select a rector for the congregation, who would not be the choice of the parishoners, and would manage all the affairs of the corporation with reference rather to the interests of the Churches to which the voters belonged, than to those of Trinity church. It would be an unheard of despotism, thus to permit one set of men to govern another—to control its spiritual as well as temporal affairs. It would be utterly at war with all our ideas of civil and religious liberty.

The principle that makes a person a member of but one parish, and responsible to but one religious society, pervades the whole Christian world, and is indispensable to the maintaining of discipline, and preservation of purity."

This doctrine, of that eminent jurist, Judge Parker, is fully sustained by several decisions in the state courts of Massachusetts, to one of which, that of Baker and others vs. Fales, 16 Mass. Rep. 488, I would now refer as completely covering the whole case now before this committee.

The facts in relation to the matters adjudicated in the action above noticed, are briefly these: The "first congregational parish in Dedham, Massachusetts, was the owner of divers tracts of land, given at various times to the parish, for the use of the church and other purposes forever.—At the time of these various gifts for the use of the "first parish" in Dedham, this society was the only one existing in the town. In the year 1818, a serious difficulty originated in the church on the occasion of settling a new minister in the parish, and to such an extent was this unhappy controversy carried, that the society was rent asunder, and a majority of the congregation left the parish church, and held their stated meetings for worship in another place, claiming to be the original parish, and as such, electing their church officers, &c., &c. The action in question was brought by the deacons of the old church, to obtain possession of divers bonds given on the sale of some of the church lands, and which the defendant, one of the deacons of the seceding portion of the church, had taken and wrongfully detained from the plaintiffs. This state of facts brought up for consideration the interesting and important question, which party constituted the first parish in Dedham. The opinion of the court was delivered by that eminent jurist, chief justice Parker, and who at great length examines the various questions involved in the cases, and pronounces an elaborate opinion thereon.

The reporters note to the case, and which is fully sustained by the case itself, is as follows:

"When a majority of the members of a congregational church, separate from the minority of the parish, the members who remain, although a minority, constitute the church in such parish, and retain the rights and property belonging to the church.

In support of the reporter's note, I will now read an extract or two from the opinion of Chief Justice Parker. On page 506, he says:

"Now property bestowed upon churches, has always been given for some pious or benevolent purpose, and with a particular view to some associated body of christians. The place in which the church is located, is generally had in view by the donor, either because he there enjoyed the preaching of the gospel and the ordinances, or because it was the place where his ancestors or his family and friends had assembled together for religious purposes. These associations will be found to be the leading motive for the particular direction, which his charity has received. If he gives to a church for the general purpose of promoting piety, or for the use of the poor of the church, he generally designates the body, by the place where it is accustomed to worship. Thus if a donation were made to the Old South Church, Park Street Church, Brattle Street Church, or any other that might be thus designated by local qualities, it

must be supposed that the donor had in view the society of Christians worshiping in those places; and as this donation is intended to be perpetual, that he had regard to the welfare of successive generations, who might become worshipping Christians and church members in the same place. If the whole society should find occasion to remove to some other place in the same town, the identity might be preserved, and the bounty enjoyed as he intended it. But if the church alone should withdraw and unite itself to some other church, or to a new and different congregation, it would be defeating his intentions, to carry the property with them and distribute the proceeds in a community, for the members of which he may never have entertained any particular feelings of kindness. It being, as we think, established that the members of the church who withdrew from the parish, ceased to be the first Church in Dedham, and that all the rights and duties of that body, relative to the property entrusted to it, devolved on those members who remained with and adhered to the parish."

In the above case Chief Justice Parker contends with great force that inasmuch as the various grants were made to the Dedham first parish, at a period when there was but one society in town that under the circumstances of the case, they should be considered as having been made for the benefit of all the inhabitants of the town of Dedham. His reasoning on this point is as follows:

"The presumption is violent then, that almost if not quite all of the adult inhabitants of Dedham and other towns were church members, and a grant *to the church*, under such circumstances, could mean nothing else than a grant to the town."

Yet this learned and eminent jurist says emphatically, that all such grantees who leave the parish, and unite with another or form new parishes, thereby cease to have any interest whatever in the property of the church they left."

In proof I make one further extract in point:

"Since the grants were made, parishes have been set off in the town, and other churches have been established within these parishes, but a *residuum* has always been left, and have thus become the first parish, and have lawfully succeeded to all the rights vested in the inhabitants of a parochial nature."

Mr. Chairman, during this debate we have heard much said about vested rights—the vested rights of divers Episcopalians in the city of New York, and the monstrous wrongs of Trinity parish in derogation of those rights. I shall not stop at this time to examine this charge in all its bearings, as it will come more appropriately under review when I come to speak of that much maligned act—the explanitory law of 1814. Before leaving however, the consideration of the charter of 1697, I would in a hurried manner call the attention of the committee to one further provision in this royal grant, and which not only disposes of this question of *vested rights*, but also, that of all the inhabitants of New York city in communion, &c., being corporators of Trinity parish for all time to come. The provision of the charter to which I refer, and to which I would now solicit the attention of Senators, is from line 564 to 575, inclusive. I read from the charter:

"And we do of our like special grace, certain knowledge and mere notion, give and grant unto the sole rector, and the sole inhabitants of the said city of New York, in communion, &c., full power and authority, from time to time, to appoint, alter, and change such days and times of meeting as they shall think fit, and to choose, nominate, and appoint, so many others of our liege people as they shall think fit, and shall be willing to accept the same, to be members of the said church and corporation and body politic, and then votes the same to induct."

It will be seen at a glance that the charter, by the provision therein which I have just read, provides for the *choosing, nominating and appointing* of "so many others of our liege people," "to be members of the said church and corporation," as the actual corporators should "think fit," and no more.

Mr. Chairman, if, as generally conceded, the question before us is one of law rather than of fact, then I submit that the decisions of our courts should have the same controlling influence with Senators around this circle, in considering this momentous question, that such decisions would have been, were this matter of Trinity in the Supreme Court of this state, rather than here, and hence the opinion of so able a jurist as chief justice Parker, in the Dedham parish case, and which has so many analogous points to that under consideration, will receive that due consideration at our hands which it so eminently deserves. And what, let me ask, does this case decide? It decides clearly and explicitly, that members of a religious congregation or parish, seceding therefrom, do by such act forfeit all their rights as parishioners, and that the "*residuum*," although a minority of the original society, are nevertheless the legal members or corporators of the parish, and as such, entitled to all the temporalities thereof, without regard to the seceding members. Hence it follows of necessity, if the ruling of the chief justice in the Dedham case be good law, and which to my knowledge has never been called in question, that the Episcopalians in the city of New York, who belong to other parishes who have *seceded* from Trinity parish, have no interest whatever in its estates, and have ceased to be corporators and voters at the annual elections in Easter week. Again, if the doctrines of the eminent jurist whose opinion we are considering, be indeed the law of the case, what, let me ask, should be the action of this body in relation to the matter before us? Ought we not to say, as our predecessors have more than once heretofore said, that this question of Trinity parish, so unhappily sprung upon us, has no business here? That it is a question appropriately for the courts,

and that hence we will as soon as possibly dismiss the subject from these halls of legislation?

It will be remembered, Mr. Chairman, that at the commencement of my remarks, I propounded to the honorable Senator from the 22d, several interrogations, among which there was one as follows:

"Was it the design of the royal charter, that all the subsequent inhabitants of New York city in such communion, should like the original corporators be voters at the annual elections of Trinity, without any further qualifications or action on the part of the vestry?"

And to which question my honorable friend promptly responded in the affirmative. Now, if indeed, the Senator be correct, how will he account for that provision in the royal grant which I have just read? If all of the inhabitants of New York city in communion, &c., and all who should come after them with like qualifications, were *per force* members and corporators of Trinity parish, why this provision? Why the necessity thereof? If it be true in point of fact, that all such "liege people"—all such inhabitants of the city of New York in communion, &c., and their successors, were corporators, why then the useless ceremony of *choosing, nominating and appointing them?* In the power to elect there is included the power to reject, and hence, the position that all of the inhabitants of New York city, in communion with the protestant church of England there, were members of Trinity parish, and corporators *per se* is, in connection with the provision I have read, simply absurd.

This prominent feature of the charter is not there by mistake, but to serve some important end and purpose. And what end so all important as that which this clause evidently contemplates in the admission into the fold of Trinity parish of such worthy communicants of the Protestant Episcopal church of England, being inhabitants of the city of New York, as shall be *chosen, nominated and appointed*, and who *shall be willing to accept the same, to be members of the said church and corporation.*" It seems to me extremely difficult to expunge the force of this important clause in the charter. Conceding as I have all along, that when the charter was first granted, that by force of its provisions, every inhabitant of New York city in communion, &c., was made a parishioner and corporator of Trinity parish, but it does not necessarily follow that all the succeeding inhabitants of the city, although in communion, &c., were *per se* such parishioners and corporators. And still less does it follow, that were such succeeding inhabitants shall have formed distinct and independent parishes, with their own rectors, wardens and vestrymen, that nevertheless, they yet remain corporators of the church of Trinity parish, and are entitled to a voice and vote in all the various proceedings pertaining to said parish. Mr. Chairman, the idea seems to me so utterly absurd, that I can not account for the opposite views of honest and high-minded Senators around this circle.

Mr. Chairman, I now have finished my remarks in relation to the charter of 1697, and I now propose to examine very briefly the state act of April 17th, 1784, and in relation to which Mr. Porter, the learned counsel against Trinity, read in his lengthy argument before the "special committee," that upon *this law the Episcopalians may safely rest their claim.* And I say as emphatically, that upon this law Trinity parish may safely rest its claim. Here then we find common ground for both, in a statute free from the charge of unconstitutionality, and to which both parties appeal with great confidence.

The paramount objects of the acts of 1784, amending the charter of 1697, was to conform its provisions in some respects to the changes brought about by reason of the revolution, and our independence from the control of Great Britain; and also as being declaratory of that part of the royal grant which related to the corporators of Trinity parish. The title of the act is as follows: "*An act for making such alterations in the Charter of the Corporation of Trinity Church, as to render it more conformable to the Constitution of the State.*

To the first section of the bill there are four preambles. The first recites, that " by letters patent under the great seal of the then colony, and now state of New York, bearing date the sixth day of May, in the year of our Lord one thousand six hundred and ninety-seven, many of the inhabitants of the city of New York, members of the church of England, were erected into a corporation, by the name and style of the rector and inhabitants of the city of New York, of the Protestant church of England, as by law established."

The second preamble recites, that the colonial Legislature on the 27th day of June, 1704, passed an act, entitled, "An act for granting sundry privileges and powers to the rector and inhabitants of the city of New York, in communion of the church of England, as by law established."

The third preamble recites that those parts of the charter of 1697, "which render necessary the induction of a rector to *the said church* by the governor, according to such instructions as he shall from time to time receive from his Britannic majesty, and such other parts of the said charter and law as admit and acknowledge that rights exist in the bishop of London, in and over *the said church*, are inconsistent with the spirit and letter of the constitution of this state."

The fourth preamble recites, "that certain other parts of the said charter and law," and also the colonial law of 1693, "are contradictory to that equality of religious rights which is designed to be established by the constitution of this state."

Then comes the first section of the act, repealing so much of the charter and law of 1704, as relates "to the induction of the rector by the governor," and the "authority of the bishop of London" over the corporation and the collection of money from the city of New York, "for the

use of the rector," &c. The said first section also enacts that "no nonuser or misuser, between the nineteenth day of April, one thousand seven hundred and seventy-five, and the passing of this law, shall be in any wise construed to annul, injure, repeal, or make void the said charter, or the said law first above particularly mentioned, where the same is not inconsistent with the constitution of this state."

The second section follows without any preamble whatever, and which I will give entire as I shall have occasion to refer to it while considering this act of 1784:

"II. *And be it further enacted, and it is hereby enacted by the authority aforesaid*, that the church wardens and vestrymen of the said corporation, or a majority of them, be vested with full powers to call and induct a rector to the said church, as often as there shall be a vacancy therein."

Then comes the all important preamble to the third section, and which I shall give verbatim, as well as the section itself.

"*And whereas*, doubts have arisen on those parts of the said charter and law first above mentioned, which speak of inhabitants in communion of the said church of England; for removal whereof,

"III. *Be it further enacted by the authority aforesaid*, that all persons professing themselves members of the Episcopal church who shall either hold, occupy, or enjoy a pew or seat in the said church, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the holy sacrament of the Lord's supper at least once in every year, being inhabitants of the city and county of New York, shall be entitled to all the rights, privileges, benefits, and emoluments, which in and by the said charter and law first above mentioned, are designed to be secured to the inhabitants of the city of New York in communion of the church of England."

After the passage of this act of 1784, its provisions become a part and parcel of the original charter, and so remains up to the present hour, except as changed by subsequent acts of the legislature of this state, on the petition of the rector, wardens and vestrymen of Trinity parish. Notwithstanding the enemies of Trinity pretend to have great respect for this important act, and Mr. Porter in his interminable argument before the special committee of this body, speaks of it as a law upon which the Episcopalians of the city of New York, belonging to other parishes than Trinity church, "*may safely rest their claim*," yet, after all, they find this same statute most dreadfully in their way, and hence are obliged to resort to one of the most miserable of all quibbles to destroy the force of its provisions. Even my honorable friend, the Senator from the 22d, notwithstanding all his usual fairness in debate, is obnoxious to this charge, and has resorted to a species of subterfuges which he would hardly take, even in pettifogging a suit before a county justice. It is urged, and with seeming sincerity, that the phrase "*the said church*, as used in section second of the act we are considering, does not mean Trinity church, but the Episcopal church at large. I will read to the committee from the reported speech of the honorable Senator from the 22d, what he said the other day on this point.

"It is claimed by the present corporation, that in the third section which I have read, wherever the word "church" occurs, it refers to Trinity church, and indeed it is absolutely necessary that this position should be taken, for if it does not refer to Trinity church, but has reference to the church of England, it is most apparent that the exclusive right claimed by Trinity church is in derogation of that act. Now it is most remarkable, that in the body of the act of 1784, the words "Trinity church" are not to be found, and the title of the act which speaks of making alterations in the charter of the corporation of *Trinity church*, was clearly an assumption of the existence of a corporation which never existed by charter or law until 1814. The attention of this committee is called to the reasons expressed in the preamble for the enactment of section three. What are the doubts spoken of in the preamble? Are they not upon the charter and act of 1704, which speaks of inhabitants in communion of the church of England? And when section three makes provision for removing these doubts, is it not an imposition upon the credulity of men to maintain that the word church refers to anything else but to the subject matter which the section was designed to explain? It is not necessary for us to go beyond this act; a legislative construction is given as to the corporators. The provision is broad and plain, that communicants and pew-holders in the Episcopal church, being inhabitants of the city of New York, are entitled to the privileges and emoluments which by the charter and act of 1704 were designed to be secured to the inhabitants so being in communion."

"The applicants for the modification of the law of 1814, by virtue of the act of 1784, have secured to themselves rights and privileges, upon which they can rest with entire confidence, and I most cordially invite discussion and debate upon the provisions and spirit of that act."

The first thing, Mr. Chairman, entirely beyond my comprehension in the extract which I have read from the speech of the honorable Senator, and which I can not reconcile even upon his own premises, is where he says that the corporation of Trinity church "*never existed by charter or law until* 1814." And then a little further on declares, that "*the applicant for the modification of the law of* 1814, *have secured to themselves rights and privileges by this same act of* 1784, *upon which they can rest with entire confidence.*"

Again, Mr. Chairman, I acknowledge my entire inability to understand this novel reasoning of the honorable Senator. If the royal grant of 1696, and the state act of 1784 were so completely inoperative that no corporation ever ex-

isted by them, how happens it that this same act of 1784 has secured to these *pseudo corporators* of New York city such indisputable rights and privileges?

Again, if there never existed a charter or law until 1814, and the act of 1814, entirely precluded the Episcopalians of New York city, who belong to other parishes than that of Trinity church, from all participations in the estates, &c., held by Trinity parish, where in the name of common sense, will these *disfranchised corporators* find a grant or act which even has an *awful squinting* in their favor. Not one! for no such one exists. I submit therefore that my honorable friend's reasoning is inconclusive and contradictory, and shows that the Senator when making his argument was "in pursuit of knowledge under difficulties."

But the honorable Senator from the 22d says, that the word "church," when used in this third section of the act, has no reference to "Trinity church" in particular, but to the whole Protestant Episcopal church of the city of New York. This position is by no means new. The enemies of Trinity, when they fall back upon the act of 1784, and express a willingness to rest their claims on the provisions of this act alone, see the absolute necessity of destroying not only the spirit but the very letter of the statute itself. Mr. Chairman, let us examine this act of 1784, for a few moments.

It is a well established rule of law in construing statutes, when the intention of the legislator is in doubt, that, not only the whole act is to be taken into consideration, but also the title of the act. This rule of law as well as of common sense, I shall observe while considering the act before us. The title to which, according to my views, shows conclusively that the intention of the Legislature in passing it was to amend "*the Charter of the Corporation of Trinity church*," for the title reads, "An act for making such alterations in the Charter of the Corporation of Trinity church, as to render it more conformable to the constitution of the State." And, hence, there can exist no reasonable doubt of what the Legislature intended to do, when it passed the bill, viz: just what the title declares.

In the third preamble to the first section of the act, and which I have read to the committee, the word "church" occurs twice. I will read a portion of this preamble again. "*And whereas* those parts of *the said charter* which render necessary the induction of a rector to *the said church, &c.* The word "charter," also, is named twice. The word "*said*" indicates that the "charter" and the "church" had been previously spoken of in the act, or in the title to the act. By referring to the statute they are found to occur for the first time in the title; and, hence, the words "*the said charter*," and the words "*the said church*," refer to the charter and church, named in the title, and which is Trinity church, and the royal charter of 1697.

In section second of the statute, power is granted to the church-wardens and vestrymen of the "said corporation"—referring to the corporation named in the title to the bill, and which is "the corporation of Trinity church," "to call and induct a rector to the *said church*," meaning Trinity church. As the section is brief I will read it once more:

11. "*And be it further enacted, and it is hereby enacted by the authority aforesaid*, that the church-wardens and vestrymen of the said corporation, or a majority of them, be vested with full powers to call and induct a rector to the said church, as often as there shall be any vacancy therein."

It is alleged, however, by the honorable Senator from the 22d, that "*the said church*," as used in this and other sections of the act, does not refer to Trinity church, but to the Episcopal church at large, or church of England. If the Senator is correct, then where the words "corporation" and "church" are named in the section, the words "church of England" might be inserted without doing violence to the section.

Let us, Mr. Chairman, test the question on this principle. The section then will read:

And be it further enacted, and it is hereby enacted by the authority aforesaid, that the church-wardens and vestrymen of the said *church of England*, or a majority of them be vested with full power to call and induct a rector to the said *church of England*, as often as there shall be any vacancy therein.

Mr. Chairman, the mere stating of the proposition in this form carries with it its own refutation. The inducting of a rector into the church of England at large. It shows, however, to what miserable shifts the enemies of old Trinity are driven in order to compass their unholy designs.

I now come to say a few words in relation to the third section of the act of 1784, and which is exceedingly important in two particulars.—First, for the reasons expressed in the preamble to the section, and which is as follows: *And whereas* doubts have arisen on those parts of the said charter (the royal franchise of 1697,) and law first above mentioned, which speak of inhabitants in communion of the said church of England: for removal whereof—"*Be it further enacted*," &c.

Second, for the reason that this third section makes important alterations in relation to the corporators and voters of Trinity parish. I have already read this section to Senators, and wherein the phrase "*the said church*" occurs three times in succession; and which my honorable friend, the Senator from the 22d contends does not refer to any one particular church, but to the church of England at large—to the whole body of Episcopalians wherever found. Mr. Chairman, let us look at the material parts of this section somewhat critically.

After reciting the enacting clause the section commences as follows: "That all persons professing themselves members of the Episcopal church." Here the words "*Episcopal church*" are evidently descriptive, and are to be taken in a denominative sense, the same as though this part of the section had read *that all persons pro-*

fessing to be Episcopalians. The section then goes on, "who shall either hold, occupy or enjoy a pew or seat in *the said church*, and shall regularly pay to the support of *the said church*, and such others as shall in *the said church* partake of the holy sacrament of the Lord's Supper, at least once in every year, being inhabitants of the city and county of New York, shall be entitled to all the rights," &c.

The preamble to this section sufficiently indicates that the object of this section was to remove the doubts which existed in relation to the "*inhabitants in communion of the said church of England.*" Even then, when there was but one Episcopal parish in the city of New York, it seems to have been seriously doubted whether all "*of the inhabitants from time to time inhabiting, and to inhabit within our said city of New York, in communion with our said Protestant church of England*" were corporators and voters in Trinity parish. It probably was contended on the one hand that this was sufficient, while on the other it was urged perhaps that conceding these qualifications, it was nevertheless necessary according to the charter, that they should be *chosen, nominated and appointed.** Be that as it may, it is sufficient to know that doubts and difficulties existed as to who were corporators and who were not; and that this section was drawn to remove these doubts and obviate these difficulties. And it is to be presumed, according to a well established rule of law in expounding statutes, that the legislature had this in view while passing the act. On this point Col. Throup in his memorable pamphlet justly remarks, "that in expounding a statute, we are to presume that the legislator used words in their most usual signification—that he had the subject matter constantly in mind—that all his expressions were directed to a reasonable end—that his train of thought was uniform—and that he intended to infuse into every part of the statute, the same spirit.

Keeping these common sense rules in view, and applying them to the interpretation of the section of the act we are now considering, it will be found that there are few or no difficulties in the way. The great leading idea of the whole act, is the church of Trinity parish. Of this there can be no reasonable doubt whatever; and hence this great leading idea must have been "constantly on the mind" of the legislator and when in this section he uses the words "*the said church*," he had reference to Trinity church and no other. If, where the words "*the said church*" occur, there be inserted "Trinity church" the very object is accomplished which the preamble declares. All ambiguity and cause for doubt vanish at once. On the contrary, instead of the words "*the said church*," insert "Episcopal church" and you make that which is said to be doubtful, not only much more so, but even *sublimely* ridiculous. On this point I can not do better, Mr. Chairman, than to read from a pamphlet I hold in my hand called "A WORD FOR TRINITY CHURCH,' in further illustration of what I have said, the writer says:

"Of course when this act speaks of "a pew or seat in *the said church*" it refers, not to the "Episcopal church" in general, but the particular parish church mentioned in the title of the act. The contrary supposition is simply absurd; for what is meant by "the Episcopal church" clearly has and can have no pew, or seat for any one to hold or occupy. Still it would appear that some have maintained the two phrases in question to mean the same thing; but this is quite too much; it involves such violence of interpretation, that we can but marvel how any one should either believe it himself, or think to make others believe it. The avowing of such a believe, however, can not justly be taken as impeaching a man's rectitude; for we safely affirm that no one would ever venture to stand responsible for such a notion, unless he had first persuaded himself of its truth."

One strong, and as seems to me unanswerable argument, in favor of the construction which I am giving to the phrase, "*the said church*," is to be drawn from the existing state of things when the act of 1784, was passed, and the effects resulting therefrom. In giving effect to statutes of doubtful import, it is of great importance to have a clear understanding of all the contemporaneous facts and circumstances which existed at the time; and it seems to me that much of the diverse construction which has been given to the phrase "*the said church*," has arisen from a disregard, or non-application of this important rule.

The honorable Senator from the 22d says, in relation to that section of the act, which I am considering that "the provision is broad and plain, that communicants and pew-holders in the Episcopal church, being inhabitants of the city of New York, are entitled to the privileges and emoluments which, by the charter and act of 1704 were designed to be secured to the inhabitants so being in communion."

I shall assume, Mr. Chairman, that when the honorable Senator speaks of "pew-holders in the Episcopal church being inhabitants of the city of New York," he is, nevertheless to be understood as meaning *pew-holders in some particular church edifice*, as it would be doing him great injustice, I think, to say that he means by "*pew-holders* in the Episcopal church," such in a denominative sense, merely from the fact, that such a construction is simply ridiculous.

It will be remembered by gentlemen around this circle, that when the statute of 1784 became a law, there were but three Episcopal church edifices in the city of New York, and that these three, according to Episcopal law and usage, constituted but one parish—the Parish of Trinity church. The chapels of St. George and St. Paul being but a part and parcel of Trinity, with their officiating clergymen, but destitute of rectors, church wardens and vestrymen, except the rector, &c., of Trinity church proper; and the pew-holders and communicants of these chapels

* See charter lien, 570 to 575.

of ease belonging to such parish, and being corporators and legal voters therein. This being the case, there was no other church in the city of New York in 1784, in which the inhabitants, in communion with the church of England, could be pew-holders excepting the church of Trinity parish; and hence the phrase in the third section of the act, "*the said church*," must of necessity refer to Trinity church and no other.

That such must have been the construction given to this third section of the act, by the Episcopalians of New York, contemporaneous with its passage and for a long period thereafter, is very evident from the fact that no dissatisfaction with the provisions of the statute ever occurred, so far as we have any knowledge on the subject; and yet, none but pew-holders and communicants of Trinity church, were ever admitted to vote at the annual elections in Easter week.

We have seen, Mr. Chairman, that the section of the act I have been considering, was passed to remove doubts which existed in relation to the corporators of Trinity parish; and it seems, for a period of more than twenty-five years thereafter it produced the desired effect. Now if, as contended by the honorable Senator from the 22d, and others who follow his lead, that the doubts which existed in the charter of 1697 were removed by declaring that all pew-holders and communicants of the Episcopal church at large should be corporators of Trinity parish, and as such entitled to vote at the annual elections in Easter week, how shall the fact be accounted for that such right was never exercised. And, if deprived of this right by the vestry of Trinity parish, why patiently submit to the outrage? That none but pew-holders and communicants of Trinity church, were ever permitted to vote after the passage of the act of 1784 is a historical fact, and that no complaint was ever made until the year 1812 or thereabouts, is also as certain. In proof of this, Mr. Chairman, I will read a few authorities. And first I will read an extract from the petition of Trinity church, presented to the Legislature of this state in the year 1813, and which is as follows:

"That since the passing of the act above referred to (the act of 1784), the pew-holders of Trinity church, and of the churches or chapels belonging to the said corporation and the regular communicants therein, have been the only persons admitted to vote at elections for church wardens and vestrymen of the said corporation, according to the just and fair construction contemporaneously and ever since given to the act."

Judge Parker, the eminent counsel for Trinity before the special committee of the Senate, in his remarks makes the following statement, and which I will read:

"No one has ever voted at the vestry elections of Trinity church who was not a member of Trinity parish; and the fact that no one out of the parish so voted or claimed the right to vote, from 1784 to 1812, a period of 28 years, shows a contemporaneous practical construction of the act of 1784, which in a case of doubt should be conclusive."

"The fact that no person has ever voted at the vestry elections of Trinity church, except a pew-holder or a communicant of that church, has never been controverted. It was not denied in 1814, nor in 1846 or 1847, when applications were made to the Legislature to repeal the act of 1814. But we have, nevertheless, not neglected to prove it. I know it is difficult to give proof in regard to transactions which occurred sixty or seventy years ago, but fortunately we were able to produce before the committee two aged men of the highest respectability, whose truth and integrity will never be questioned, who were connected with this church, and active and zealous in its interests prior to 1812. I allude to the venerable rector of the parish, Dr. Berrian and the Hon. Gulian C. Verplanck. The latter witness was examined fully on this subject in the absence of a member of the committee, Mr. Noxon. The rector tells us that he never heard any claim of this kind being made until 1812. Mr. Verplanck was asked if any persons other than pew-holders and communicants in Trinity church ever voted there? He answered, "*never as I believe.*"

Mr. Chairman, I have now done with the act of 1784, and if the construction which I have given to it be correct, it should dispose of this whole matter without reference to the subsequent law of 1814. By the act of 1784 it seems to be clear and conclusive, that to constitute a corporator and voter at the annual elections of Trinity parish, it is necessary not only to be an inhabitant of the city of New York, but also a communicant of Trinity church, or a pew-holder therein. But these enemies of Trinity are not such communicants or pew-holders, and hence they are not corporators in the parish of Trinity church and are not entitled to vote at the annual elections in Easter week.

Mr. Chairman, I come now to speak of that much maligned statute, the act of 1814; and which I shall do in as brief a manner of possible, for the reason, that at this advanced stage of the session, the lengthened discussion already had, and yet to come in relation to the affairs of Trinity church. I am admonished, notwithstanding the vast importance of the matters before us, to draw my remarks to a close.

From a history of the facts immediately preceding the application made by the vestry of Trinity parish in its official capacity for the act in question, it seems to have been called for on account of one or more persons belonging to other Episcopal parishes in the city of New York claiming to be corporators of Trinity parish; and as such offering to vote at the elections in, Easter week 1812, and whose votes had been refused by the vestry, and which adverse action towards them was immediately followed by the Board's adopting a declaratory resolution, setting forth in full, the necessary qualifications of voters at the elections of Trinity parish; and also, by

forwarding to the Legislature, then in session at Albany, a memorial from the Board, in its official capacity, praying for the passage of the act we are now considering. The resolution of the vestry is as follows:

"It having been represented to this Board that certain persons, belonging to Protestant Episcopal congregations in this city, which have been incorporated as separate and distinct from the corporation of Trinity church, and who are not pew-holders in Trinity church or any of its chapels, claim a right to vote at the annual elections for church-wardens and vestrymen of Trinity church, therefore resolved, as the unanimous sense of this Board, that no other person, except inhabitants of the city of New York, who profess themselves members of the Protestant Episcopal church, and hold, occupy or enjoy a pew or seat in Trinity church, or regularly worshipping therein, shall partake of the holy sacrament of the Lord's Supper in the said church or one of its chapels at least once in every year are entitled to vote at said elections."

I deem it unnecessary, Mr. Chairman, to detain the committee for the purpose of relating in full the history of the declaratory act of 1814 in reference to Trinity church. By the prompt action of the Board on the rejection of the votes offered at the Easter week elections in 1812, it seems to have been considered of great importance, that a legislative construction should be given to the charter of 1697, and the act of 1784, in relation to the qualifications of corporators, as speedily as possible. In this I differ materially from those eminent and high-minded gentlemen composing the vestry of Trinity parish at that momentous period of its history, from the fact that I deem the rights of the corporators of Trinity parish too plain to admit of doubt, either under the royal charter in its original state or as subsequently amended by the state act of 1784; and from the fact that this legislative action of 1814 seemed to admit by implication a doubt in the minds of the vestry on the issue raised by the Episcopalians of other parishes of the city. That the vestry, however, was actuated by the purest of motives there can be no doubt in the minds of candid men, notwithstanding the labored and wicked attempts that have been made here and elsewhere, to impeach their motives. And here, Mr. Chairman, let me say in passing, that which I did not intend to say, but which the present moment seems to make proper, that I was exceedingly sorry to hear the sweeping and unwarranted expressions of my honorable friend from the 22d, in relation to Trinity church, and those well known gentlemen who administer so scrupulously her vast estates, and against whom the breath of calumny has never, until the present hour, been directed. Mr. Chairman, I will briefly refer to one or more of these unqualified denunciations, coming from the honorable Senator from the 22d, and as it seems to me, entirely gratuitous on his part, and which I trust may be retracted on the "*sober second thought*" of the Senator. When addressing the committee a few days since on this matter of Trinity, the Senator remarked:

"I might stop here and ask one single question—Why is it there is such avidity, such greediness on the part of the vestry, to hold on to the power lodged in their hands by the law of 1814? The honorable Senator from the 31st asks if Mr. Dix and Mr. Verplanck are to be impeached on this floor? No impeachment is brought against them. The charge is not that the fund is controlled by them. Indeed, they have resisted from time to time in the vestry, the acts of the standing committee. But the charge is, that others hold on to and administer the funds; and why is it they so pertinaciously hold on to the church property and lease it from year to year? Probably on account of some considerations not yet brought before the Senate. I surmise that in these same leases there is something that does not meet the eye; that some friend stands behind in the back-ground; some son, or father, or brother occupying this property, and making a profitable thing out of these leases. I ask, what is it that should induce them to hold on to this property, unless there is something that the public can not see?"

"My honorable friend, in the course of his remarks, has declared that consecrated justice is on the side of Trinity. Where can it be found? In her one hundred and twenty-five corporators, who have wrested from the other corporators their just rights? Tell me not of consecrated justice from those who are *steeped in wrong*—Trinity church never had any right in the property she unjustly holds. Where is the grant giving her such right?"

"Mr. WADSWORTH: It is in the charter. The charter gives her that right."

"Mr NOXON: No, it does not. It gives to the corporators, not to the church. The church usurps it, and yet the Senator talks about its consecrated justice. Consecrated justice! why I wonder that the embellishments that surround her churches do not cry out in judgment against her. Conscrated justice in usurpation! Consecrated justice in daring wrong! Consecrated justice in robbing men of their rights!"

Now, Mr. Chairman, these are no light and trivial charges to be brought by a senator of the Empire state in this place, against some twenty of its citizens—against such men as the pious and venerable Doct. Berrian, Gouv. M. Ogden, Cyrus Curtis, and others; not to mention Messrs. Dix and Verplank who the honorable Senator seems to excuse, or rather "*to damn with faint praise.*" The Senator after surmising that in the leases which Trinity parish has given of some portion of her estates, "*there is something that does not meet the eye*," and that "*some son, or father, or brother*" *is making a profitable thing out of these leases*," asks what it is that induces them "*to hold on to this property, unless their is something that the public can not see?*" some friend standing "*in the back ground*" for the purpose of helping a son, father or brother who make money out of the "*corner lots*" of old Trinity.

Mr. Chairman, I am exceedingly grieved to learn that the honorable Senator has no higher conceptions of duty than is *implied* in the interrogatory, which he has with no much earnestness propounded to Senators around this circle, and, which, in passing I will briefly answer. The gentlemen who compose the vestry of Trinity church are the legal custodians of a vast eleemosynary estate, and as such, bound to protect it from dissipation at all hazards,—men whose standing is above suspicion, and whose motives have never been called in question; and who have administered the great trust in their hands in a manner unparalleled, perhaps. in the history of the charities of a world, and so disinterestedly in relation to themselves, as even to extort the admiration of their enemies. Hence, the interrogatory of the Senator, is one admitting of a prompt and satisfactory answer. They "*hold on*" to the estates of Trinity from a high sense of duty, faithful to a trust which a good Providence has devolved upon them; and not, as the honorable Senator supposes, to enable their friends and relatives to make "*a profitable thing out of*" the leases, and other property belonging to Trinity parish. But, Sir, enough on this point, I have largely digressed, and will therefore return to the immediate consideration of the act of 1814.

This act, it is said, was favorably received by both branches of the Legislature, and passed with trifling opposition by decisive majorities. Only one remonstrance appeared against the bill, and that purporting to come from a meeting of Episcopalians convened at Mechanic Hall in the city of New York, March 3, 1813. Whether the meeting was large or small I have no means, of knowing, but, from the fact, that the memorial is signed only by the chairman and clerk of the meeting, it is, perhaps, fair to conclude, that it was thinly attended, and barely sufficient in numbers to organize and adopt a memorial to the Legistature. This is further evident from the fact, that out of the nine independent Episcopal parishes then existing in the city of New York, besides Trinity and her chapels, not one of them took any part in this famous meeting, or in their corporate capacities exerted any influence against the passage of the bill; on the contrary, it received the hearty support of some, and the tacit consent of all. This fact makes with such irresistible force against the pretensions now set up by the opponents of Trinity church, that to do it away, they have resorted to the most miserable of all subterfuges, viz: that these independent parishes, like those of the country now, were all subsidized by the munificient donations of Trinity in their behalf, and, hence, in the language of the "select committee," *were willing at that time to submit, inasmuch as they had all, without any exception, received liberal donations of real and personal estate from the corporation of Trinity church.*"

Mr. Chairman, to show how destitute of foundation this humiliating assertion is, and to rescue these churches from the unmerited obliquy thus cast upon them, I will read to the committee an extract from an official communication eminating from the vestry of St. Mark's church to that of Trinity parish, and bearing date on the 12th day of April, 1812:

"We have learned with regret, that some of our Episcopal brethren assert the claim of a general right, for all the Episcopal churches in this island, to vote at your elections for church-wardens and vestrymen. Whatever color may be given to this claim by any ambiguous words to be found in your charter, we sincerely take pleasure in declaring, that the congregation of St. Mark's, which we represent, have no desire to assert the claim, and that we will at any time hereafter, cheerfully unite with your respectable body, in an application to the Legislature, if the measure shall be thought expedient, to explain the charter, and to confine the right of voting to the congregations of the churches under your immediate government."

Hence, we find, Mr. Chairman, contrary to the sweeping assertion of the special committee, and the opponents of Trinity, that there is one church at least, that in 1812, was willing not only "*to submit*" for the time being, but also for *all time* come. It will be borne in mind, that the parish of Trinity church, at that time, had no liens by mortgage or otherwise on the property of St. Mark's, and held *in terrorem* over the parish, to be enforced on its running counter to the will of the rector, wardens and vestrymen of Trinity church. The munificient endowment which St. Mark's received in 1778, was given freely, and without any conditions whatever. The same is the fact in relation to all of the other independent Episcopal parishes in New York city. Trinity had no liens whatever on the large amount of lands donated to them. How, then, could these pious, free-will offerings effect the action of the churches to which they were made? particularly in a case involving their rights, of a character exceedingly momentous, and which, to say the least, were liable to be greatly impaired by this silence on their part, involving as it unquestionably would, the legal presumption of a tacit consent. Again, if the position of the opponents of Trinity in relation to her corporators be true, then these churches had received only that which belonged to them, and only a bare pittance of that. How then should it effect, let me ask once more, their free and perfectly untrammeled action?

Mr. Chairman, I will now read to the committee certain parts of the act of 1814, such parts as I deem material for the occasion. The title of the act is as follows: "*An act to alter the name of the Corporation of Trinity Church, in New York, and for other purposes.*" Passed January 25th, 1814. Then follows the following recital:

"Whereas, at the time of passing the act, entitled, 'An act for making such alterations in the charter of the corporation of Trinity church, as to render it more conformable to the constitution of the state,' and for some years afterwards, the said corporation, although possessing several

places of public worship besides Trinity church, was the only incorporated religious society in the city of New York in communion of the Protestant Episcopal church in the state; but several other religious societies of the same denomination, have since been formed in the said city, and duly incorporated. And whereas, by an act passed the tenth day of March, in the year of our Lord, 1788, the said corporation of Trinity church was enabled to take and use the name of 'The Rector and Inhabitants of the city of New Yo.k in communion of the Protestant Episcopal church in the state of New York," which name the said corporation, by their petition to the Legislature, pray may be altered, as having now become improper; and that such further legislative provisions may be made as to remove all doubts respecting their charter rights, occasioned by the formation of other religious societies in the said city of New York. Therefore

"*I. Be it enacted by the People of the state of New York, represented in Senate and Assembly*, That from and after the passing of this act, the said corporation of Trinity church, instead of their present name shall take and use the name of 'The Rector, Church Wardens and Vestrymen of Trinity church, in the city of New York.'

"*II. And be it further enacted*, That all male persons of full age, who, for the space of one year preceding any election shall have been members of the congregation of Trinity church aforesaid, or any of the chapels belonging to the same, and forming part of the same religious corporation, and who shall hold, occupy or enjoy a pew or seat in Trinity church, or in any of the said chapels, or have partaken of the holy communion therein within the said year, and no other persons, shall be entitled to vote at the annual elections for the church wardens and vestrymen of the said corporation."

Mr. Chairman, this extract from the act of 1814 contains the only material portions therof, that I deem necessary to bring to the notice of the committee, as, in it, are embodied those alleged alterations in the royal charter of 1697, and the state enactment of 1784, of which the opponents of Trinity now complain.

The special committee of this body in their second report state, that they have come to the following conclusions as to the effect of the law of 1814, and the rights of corporators under the several grants ond acts passed in relation to the said corporation:

"1st. That from 1697, down to 1814, all persons in communion with the church of England, or the Episcopal church, being inhabitants of the city of New York, were corporators and entitled to vote for wardens and vestrymen, and under the act of 1784, pew-holders were entitled to the same right until 1814.

"2d. That the act of 1814, excludes all such persons unless they are communicants or pew-holders in the church and chapels of Trinity.

"3d. That the Episcopalians at large in the city of New York had pre-existing rights in the property and franchises of the corporation, under the grants and acts previous to 1814; and the act of 1814, which assumed to divert those rights without their consent, was unjust and unconstitutional."

Mr. Chairman, I shall not detain Senators by recapitulating the argument which I have already submitted for their consideration in reference to the royal charter of 1697, and the state law of 1784, as I trust it is still fresh in their recollection, but would merely say in passing, that unless I place a false estimate thereon, it shows clearly that these conclusions of the select committee are extremely erroneous. If in this I am correct, then it follows of necessity, that all this *noise and confusion*—this newly vamped cry about the *vested rights* of certain Episcopalians of the city of New York, belonging to parishes independent of Trinity church, amount to just nothing at all; and, that hence, the much maligned act of 1814 does not impair any such rights, and for the best possible reason in the world, that these individuals never had any such rights as corporators of Trinity parish. To talk about "*the Episcopalians at large in the city of New York*" *having* "*pre-existing rights to the property and franchises of the corporation*"—a corporation to which they do not belong, and do not even assume to belong, is, indeed, the sublimity of impudence.

Mr. Chairman, let us see if there is, in fact, any substantial difference between the act of 1784, and that of 1814, so far as these acts relate to the qualifications of corporators. In doing this I shall assume, that which has been, I think, sufficiently shown, viz: that the phrase "*the said church*," in the third section of the act of 1784, has reference to, and means Trinity church. By the act of 1784 all persons *professing* themselves members of the Episcopal church, who shall either hold, occupy or enjoy a pew or seat in *the said church* (Trinity church), and shall regularly pay to the support of *the said church* (Trinity church), and such others as shall in *the said church* (Trinity church) partake of the holy sacrament of the Lord's Supper, at least once in every year being inhabitants of the city and county of New York, shall be entitled to all the rights, &c."

I will now read from the second section of the act of 1814, and which relates to the qualifications of corporators, &c.: "All male persons of full age, who, for the space of one year preceding any election, shall have been members of the congregation of Trinity church aforesaid, or any of the chapels belonging to the same, and forming part of the same religious corporation, and who shall hold, occupy or enjoy a pew or seat in Trinity church, or in any of the said chapels, or have partaken of the holy communion therein within the said year, and no other persons shall be entitled to vote," &c.

In thus bringing the two sections in juxtaposition, and understanding the words "*the said church*" to mean "Trinity church," it is seen at a glance, that there is no substantial difference in the two sections; and from which it follows, that the Episcopalians of New York city be-

onging to other parishes than Trinity, would have no greater rights with the act of 1814 repealed than now, and hence, according to my view of the case, that portion of the act that with so much perspicuity defines the necessary qualifications of the corporators of Trinity parish, is in its legal aspect of little or no consequence. As an act, however, giving a legislative construction to the third section of the statute of 1784, it is of great importance in rendering that sufficiently plain which before was with *some* a source of formidable doubt. Again, the act of 1814 is of vast import in legalizing the valuable grants of land, before that time made by Trinity parish to the nine other Episcopal societies, then existing in New York; and also, in relation to all grants to be made subsequent to the passage of the act, to other parishes independent of Trinity. Also, in confirming the agreement between St. George's chapel and Trinity parish. But, excepting these latter provisions of the bill, the act of 1814 was of little or no moment. And hence, I might at this point, perhaps, close my remarks, as the bill introduced by the committee does not propose to repeal these provisions of the act of 1814, that relate to the previous and subsequent donations of Trinity parish, &c. I do not intend, however, thus summarily to dismiss the subject, but to give in as few words as possible, some few reasons why neither the committee's bill, or the singular substitute of the honorable Senator from the sixth should become a law.

The special committee, on page seventh of their second report to this body, advance the following strange and as seems to me paradoxical propositions: "It is contended by the counsel for Trinity church that the Legislature have no power to repeal the act of 1814. We think there is no question as to the power existing in the Legislature to repeal. The principle is undoubtedly well settled that where a law is in the nature of a contract, and where absolute rights have become vested under that contract, a repeal of the law can not divest those rights, and a sovereign state has no power to pronounce its acts so far invalid as to affect a right of property or its enjoyment which has become vested. This would be repugnant to the constitution. But inasmuch as your committee have come to the conclusion to introduce a bill to *amend* the act and not to *provide for its repeal*, this question does not properly arise."

Before making any comments upon the extract just read, I will bring to the attention of Senators around this circle the bill spoken of by the committee, and which is now being considered along with the bill of the Senator from the sixth. I will not, however, detain the committee by reading all of the bill emanating from the special committee, but only those parts that I deem necessary for my purpose in connection with the extract from the report. The act is entitled

"An act to amend an act entitled 'an act to alter the name of the corporation of Trinity church, in New York, and for other purposes, passed January 25, 1814.'

"The People of the state of New York, represented in Senate and Assembly do enact as follows:

"Section 1. The second section of the act entitled an act to alter the name of the corporation of Trinity church, in New York, and for other purposes, passed January 25, 1814, is hereby so amended as to read as follows:

"§ 2. Every male inhabitant of the city of New York of full age, in communion of the Protestant Episcopal church in the state of New York, who shall hold, occupy, or enjoy a pew or seat in any Protestant Episcopal church in said city, in union with the convention of the diocese of New York, or shall have partaken of the holy communion therein, within the year next preceding any election for church wardens and vestrymen, to be certified by the rector, senior warden, or clerk of the vestry of such church, shall be entitled to vote at all elections for church wardens and vestrymen of this corporation."

This, Mr. Chairman, is the *amendatory* act of which the honorable committee speak in the extract which I have made from their report; and which, according to the logic of the committee, can not involve the question of vested rights, because, it only *repeals* some part of the act of 1814, and not, forsooth, the whole; or according to the report only *amends* the act of 1814. Well, sir, if according to the committee, the right exists to amend the act a *little* this year, then a little more can be amended next year, and so on, until the whole act of 1814 is completely changed by amendments, and yet steer clear of the formidable objection of destroying vested rights by repeal, &c. This argument reminds one forcibly of the old scholastic logic concerning personal identity, and the case put by way of illustration of the continued darning of the silk stockings until the original stock was all gone. Will the honorable committee contend for a moment, that so far as their bill amends the act of 1814, that it is not *pro tanto* a repeal of that act? As lawyers, the majority of the committee, at least, will hardly risk their professional reputation by answering the question in the negative. Nor is the amendment a trivial one as viewed by the opponents of Trinity, and also by many of her immediate corporators and warm outside friends. It aims to increase the corporators of Trinity parish by adding at a single stroke some eight thousand thereto, to control her elections and to dispose of her estates. To create within the church scenes of discord and contention, at the contemplation of which the heart sickens and the feelings revolt. And yet, the committee says, that "*by the proposed amendment the right of the corporation, its powers and franchises are not to be disturbed.*"

Mr. Chairman, in the extracts which I have made from the committees' report, the well established principle of law is conceded, that where rights have become vested under a legislative contract with the state, that it is repugnant to the constitution of the United States to disturbe these rights thereafter, without the con-

sent of the corporators. This position of the honorable committee is most certainly true. No principle of law is better settled, or more familiar to every lawyer. And hence, as the committee seem to fear the bill introduced by the senators composing such committee, may be obnoxious to this charge, they have made the exceedingly silly attempt to keep the fact out of sight, by the miserable quibble, that in the bill they have introduced, this question can not arise, for the reason that there is no provision therein to *repeal* the act of 1814, but only to *amend*. In all frankness, sir, I must say, that this is entirely unworthy of the honorable senators composing the special committee.

The royal charter of 1697 was a contract between the crown of Great Britain and the Parish of Trinity Church, with the concurrence of both parties, and all the subsequent amendments, whether with the crown or the state of New York through its legislature, with the consent of the corporators, became a part and parcel of the charter, equally as much as though an original provision therein; and the charter thus amended can not be repealed, nor again amended by the legislature, without the consent of the Vestry of Trinity church, who represent the corporators. The legislative contracts of a state with individuals, are of the same general nature as those with individuals alone. In this respect a sovereign state has no superior right over the humblest of her citizens. Between individuals the consent of all parties to a contract is necessary to its alteration or abandonment, and courts, although having power to place such construction upon contracts as they shall deem right, yet they have no power to alter in the slightest particular, the contracts themselves—or in other words, they have no right to make a different contract for the parties, than the parties have made for themselves, however onerous some of the provisions may be. In all such cases, whether between individuals alone, or between a state on the one part, and her citizens on the other, individually or in a corporate capacity, the mutual consent of all is absolutely necessary to any alterations in such contracts; and, since the elaborate opinion of the United States Court in the case of Dartmouth College v. Woodward, this principle of law and common sense, has been well understood and constantly acted upon; and hence, since the decision in the College case, it has been the invariable practice in the legislature of this state, and I presume in all other states of the Union, in the granting of private charters, to insert therein a provision reserving to the state the power to amend or repeal the charter granted, whenever the legislature shall deem it expedient. It is unnecessary, perhaps, for me to say to senators around this circle, that the royal charter of 1697 has no reserving clause of this nature.

The bill now under consideration, Mr. Chairman, seeks to amend the charter of 1697, in one exceeding important particular, and unlike the facts connected with the passage of the act of 1814, is before us, not at the request, but *against* the wishes of the corporators of Trinity parish, who through the vestry are found earnestly remonstrating against it. The act of 1814 became a law on the application of Trinity in her corporate capacity. It was a mutual agreement between the high contracting parties. It was asked for on the one hand, and conceded on the other, and can never be repealed or amended, except by the same parties. This is beyond controversy, unless the decisions of our courts, and the constitution of the United States, are mere bagatelles. The bill introduced by the honorable committee, amendatory of the act of 1814, if indeed asked for at all, comes from the enemies of Trinity parish. Pass the bill into a law, and if it be possible to destroy vested rights, and impair the obligations of a contract by legislative action, the thing is done at once.

I freely concede, Mr. Chairman, that a wide distinction exists between private and public corporations, and on this point I will present my own views to this body in the language of that eminent jurist, Hon. A. J. Parker, and who appeared before the special committee of the Senate in the capacity of counsel for Trinity parish. Says Judge Parker in his eloquent and unanswerable argument:

"The rule of law I have been considering, as settled by the Dartmouth College case, is applicable to *private*, not to *public* or municipal corporations (4 Wheaton, 518). It will not be denied but that Trinity Church is a private corporations. Every corporation is private, as distinguished from public, unless the whole interest belongs to the government or is vested with the municipal or political power. This is the definition given in Rundel vs. Del. and R. Canal, 1 Wallace C. C. R., 275; see also 2 Kent, 305, 7th ed., note 1. I concede, that in regard to public or municipal corporations, such as cities, towns and villages, the legislature has full power to repeal or amend, and without the consent of the corporators; but that power does not extend to private corporations, such as colleges, churches, academies, &c.; all these come within the law as adjudged in the Darthmouth College case."

Mr. Chairman, there is one other reason why this act of 1814 should not at this late day be amended or repealed, and which in closing what I have to say on that explanatory act, I will briefly call to the notice of Senators, and that is the great length of time which has elapsed since its passage, and been acquiesced in by those who now are "compassing heaven and earth" to effect its repeal. While at the period the Legislature was considering the bill in 1813, some opposition was manifested, yet, immediately on its passage, this wholly ceased; and for a period of more than thirty years neither the halls of legislation, nor the annual election polls of Trinity, were besieged by these men, who now desire with such greedy longings, the consecrated estates of "old Trinity;" and who now pander to the selfishness of the human heart by the cormorant cry "*there is enough for all.*"

This acquiescence on the part of the enemies of

Trinity should be taken as I conceive, as conclusive against them; there should be some limit to the period when questions of this nature may be agitated in legislative bodies, as well as in courts of justice. I am well aware, Sir, that there is no statutory provision directly applicable to the case in hand while passing in review before this body; but, as grave questions of law, are involved, and as the action of the Legislature must to some extent at least partake of a judicial character, it seems eminently proper that the various statutes of repose and the adjudications of the courts thereon should have great weight with the Senators around this circle. Although in given cases the statute of limitations like the statute of frauds may operate with great hardships, yet as a general statute, the experience of centuries has shown it to be one of the most beneficent that the wisdom of man has ever devised. In the celebrated "Winchelsea cases," it was held by Lord Mansfield (4 Burn, 1062) that twenty years of quiet and unimpeachable possession of a corporate franchise was conclusive evidence of right against all adverse claimants whatsoever. This ruling of the great English jurist has never been, to my knowledge departed from, and is good law at this day not only in England, but in this country also. If, then, Mr. Chairman, such is the law, such the adjudications of the courts, and if as I have stated the question before us involves the consideration of this same law, how shall we escape its binding force and authority? And if, as Senators of the State of New York acting under the solemn responsibilities of an oath we shall act counter to these high and binding authorities, how shall we answer to our consciences hereafter, when upon cool and dispassionate reflection, we shall be convinced that our action on this momentous question, was not only contrary to the statutes of the State, but to the solemn adjudications of the courts thereon. This binding influence of statutory and common law, was felt and acted upon by our predecessors in these halls of legislation in 1847, when this same question was under consideration, and, Mr. Chairman, I can not refrain from reading to Senators a somewhat lengthy extract from the very able report of the Assembly committee, to which was referred the various petitions of certain Episcopalians in the city of New York, asking for the repeal or modification of the act of 1814. The committee say:

The fact of an acquiescence for more than thirty years in the provision, which thus, as the memorialists allege, deprived them of existing rights, and disfranchised them as corporators, is relied upon by the remonstrants, as an unanswerable objection to the prayer of the petition.—They insist that the same reasons of public policy which prescribe limitations to controversies in courts of justice between private parties are strictly applicable to this case; and that those who have so long submitted to what they now allege to have been an invasion of their rights, while the means of redress were abundant and were open to them, can not now be heard in the application which they make to the legislative power. The chief answers which have been made to this objection, are, that the limitations referred to are technical rules, applicable only to courts of justice, and not to legislative action; and that the mere omission to exercise a right is not a waiver of it. Viewing this as a mere private controversy between individuals, relating to personal privileges claimed by one set and denied by the other, which the ordinary courts of justice now are, and at all times have been entirely competent to determine, the committee are unable to perceive why it should not be subject to the same general rules for promoting peace and quiet, and terminating litigation which would be applicable to it if agitated in its proper tribunal; at least they think such a principle a safe guide for legislation generally and they see nothing in this case to exempt it from the general rule. There has been no impediment or obstruction to the regular and usual jurisdiction of the courts, and no reason has been assigned why resort has not been to them in some of the various forms which would have afforded ample redress for any wrong."

"The case does not present a mere occasion to exercise an unquestionable right, but a submission to and acquiescence in what is alleged to have been a gross wrong. The doctrine of acquiescence is not and can not be applied to any other case; the question can not arise until some asserted right has been violated. In regard to corporate rights, the courts have fixed upon the term of twenty years, during which they must be claimed or exercised, or be deemed waived.—This is the longest term which by our laws is allowed to individuals to assert their rights in any case; and an exclusion of even a rightful claimant from the possession of property or the enjoyment of an easement, privilege or franchise during that term without any proceeding on his part for redress, authorizes and demands the presumptions as a waiver and abandonment of the claim. For the reasons already given, we think this safe and salutary rule equally applicable in private controversies to legislative bodies and courts of justice."

With this extract, Mr. Chairman, and which seems to me so clear and conclusive, I shall close all I have to say on the act of 1814, and the bill amendatory thereof, coming from the select committee of this body.

But, Sir, there is yet another bill before Senators which remains to be considered—the compromise bill as it is called, and introduced by the honorable Senator from the sixth, as a substitute for that emanating from the senate committee.—Sir, when this compromise bill was first brought to the notice of Senators by the gentleman from the sixth, and referred for consideration to the same committee having in charge the bill to amend the act of 1814, I was forcibly struck with the remarks of the honorable Senator from the 22d in reference thereto. It will be remembered that it was hailed almost as a god-send, and

my friend from the 22d intimated at once his willingless to accept it in lieu of his own.—A bill Sir, of a nature so extraordinary as never to have had, as I conceive, a parallel either *in heaven above, or in the earth beneath, or in the waters beneath the earth.* And when introduced by the honorable Senator, I honestly supposed was for some ulterior purpose—some high object that did not appear on the face of the bill itself. An act perhaps in the nature of a "*bill of discovery*" to cause debate, and thereby develope some important truths, which the honorable Senator thought to underlay this whole matter; perhaps the important fact to whom this great franchise in reality belonged. It brought forcibly to my remembrance the wisdom of Solomon of old, and the seemingly strange course of that renowned monarch, in the case of the two mothers, claiming the living child. Senators around this circle are undoubtedly familiar with the account as contained in the third chapter of the first of Kings. Nevertheless as being in point I will relate the circumstance as recorded in the volume of inspiration. Two mothers being alone each with an infant child in the same house, it so happened that one of the children died, "because," according to the record, one of the mothers "overlaid it;" and thereupon, the mother of the dead child, whilst the other mother slept, carefully removed the living child from her arms, and placed the dead one in its place. In the morning, however, the mother of the living child discovered the cheat, and the consequence was, an angry dispute between the two mothers as to the ownership of the living child—each vehemently claiming the *infant franchise* as her own. In this state the matter came to Solomon for his adjudication, and the king said, "*The one saith, this is my son that liveth, and thy son is the dead; and the other saith, nay; but thy son is the dead, and my son is the living.*" To determine this difficult question, the monarch had recourse to a felicitous stratagem—*a bill of discovery*, and commanded that a sword be brought, and that the living child should be divided and a moiety given to each of the mothers. To this proposition the mother of the dead child, the incorrigible thief, at once consented; but the mother of the living child, whose "*bowels yearned upon her son,*" with all the horror of a mother, cried out, "*O, my lord, give her the living child and in no wise slay it! But the other said, let it be neither mine nor thine, but divide it.—Then the king answered and said, give her the living child, and in no wise slay it; she is the mother thereof.*"

Sir, when the honorable Senator from the sixth introduced this *compromise* bill of his, as it is called—this bill to *divide the living child*—the consecrated estates of old Trinity, it struck me that the Senator might have drawn an important truth from the uncommon avidity with which his proposition was acceded to by the honorable Senator from the 22d. He should have seen at once that no real friend to the church, to its peace and usefulness would have listened for a moment to a proposition so replete with utter ruin. But, Sir, I find that this bill has been introduced by the honorable Senator from the sixth with the intent of urging its passage through this body if possible. I call upon the Senator to pause. I beg of him to look at the ruinous consequences which must inevitably follow its passage through these halls of Legislature. In my estimation, Mr. Chairman, it would be infinitely better that these estates of Trinity parish, given for high and holy purposes, should be at once annihilated were the thing possible, rather than to be placed in a position so pregnant with evil consequences.

It is not my intention, Mr. Chairman, to examine in detail this bill of the honorable Senator from the sixth. The remarks that I have already made applying thereto with equal or greater force. It is, indeed, according to my ideas, a strange document, and utterly unworthy so eminent a god-father as the Senator from the sixth. But, Sir, the Senator has not as yet addressed the committee in its behalf and fully explained its various provisions, and, hence, I shall make no further comments thereon, but in conclusion say, that in bringing it forward as a substitute for the bill emanating from the Senate committee, I believe the gentleman has acted from high conscientious motives, for I believe him incapable of acting from any other.

MR. SICKLES' ARGUMENT IN BEHALF OF TRINITY.

IN SENATE ...Friday April 3. 1 P. M.

Mr. DARLING resumed the Chair and announced the Special order.

Mr. SICKLES said :—

It is a matter of regret to me, Mr. Chairman, to enter into this debate at so late a period of the discussion; for considering the number who have already participated in it, and the marked ability and thoroughness with which the topic has been treated, it is next to impossible to avoid wearying the patience of the Senate by a repetition of much to which they have already listened; and I should excuse myself from troubling the Senate with any observations, were it not for the fact that Trinity Church and Trinity Parish are within my Senatorial district, and that in a certain sense, it may be regarded as peculiarly my duty to lay before the Senate the views—the wishes—the anxieties—the convictions of my constituency upon this grave question.

I have another motive, Sir, in taking part in this debate, which I could not disregard. I was born and reared within the bosom of this church, and in this parish. The graves of my humble ancestors lie within its sacred enclosures. The marriage vow—the baptismal blessing were pronounced upon those from whom I sprang, by the side of its altars. It is the only church that now remains within my district, to take care of its poor; to relieve their wants—to visit them when sick—to clothe them when naked—and to guide them to a happy immortality hereafter.

As the city has advanced in wealth and prosperity, that large, and respectable, and wealthy portion of our citizens who formerly resided within Trinity parish, have gone to remoter portions of the city. But few of them remain where they once lived. But, Sir, there does remain a large, industrious and worthy population, peculiarly dependent on the ministrations of this church; and I could not do my duty, Sir, to this interesting portion of the constituency I represent here, if I did not take an earnest part in this discussion.

The Honorable Senator from the 22d has expressed his surprise that this subject should be the occasion of any feeling. To use his own language, he says he thinks it "*ought not* to excite any feeling." Sir, perhaps to many here this corporation—this church, is a mere abstraction; something only seen "in the mind's eye." They have not lived within its fold. They have not seen, day by day, from early youth to mature manhood, the varied blessings it has conferred upon those immediately beneath its care, and upon whom its bounty has been lavished. So that I can understand why, looking at it as a cold abstraction, they deem that it need not, and why it does not, in their breasts excite any feeling. But far otherwise is it when an act of aggression like this is attempted against a church that our constituents have from infancy been taught to regard as sacred and good.

I have yet other motives of duty, pressing me into the arena of this debate. Not only as a man, as a New Yorker, and as a representative, do I feel great solicitude in the question; but as an American and as a Democrat, I have an earnest, a profound interest in the issue. Not from mere vulgar partisan considerations; but as a believer in democracy, as a believer in free government; as a believer, and a hopeful one, in the success of that system of free Institutions, which we are all engaged, or ought to be engaged, in perfecting and maintaining. Yes, sir, if I do feel so earnest a solicitude in the result of this issue, it is because I would maintain always, and everywhere by my voice, my vote and my best labors, *vested constitutional rights;* and if there be any nation on earth—if there be any form of government ever devised,—if there be any people under the sun, that more than any other must be dependent on the scrupulous preservation of private rights and constitutional guarantees, it is this government of ours,—it is a people who believe in the democratic faith, the capacity of man for self government.

We have a government which has surmounted all other dangers. We have a constitution under which we can hold elections, choose legislatures, elect and install Presidents, and in one brief hour transfer the power of a mighty Empire from one hand to another without tumult, without resistance, without the presence of a single bayonet. We have educated a people to a point where they can intelligently exercise the exalted function of electors. But, Sir, we have yet to undergo a higher test—whether or no we can respect, preserve and maintain inviolate the vested rights of citizens and communities. If we can do this, then, indeed, shall we have triumphed. Then our august experiment stands out to mankind a victory—an example to be followed by all other nations and by all other races throughout time. But if we fail here, we send an arrow through the very heart of free government, and the whole magnificent fabric falls.

And, sir, that issue is here presented to this Senate; and in a form so palpable—so direct—that there is no escape from it, or from the consequences of the decision, if it beadverse to the declared law of the land—adverse to the hopes of those who believe that we are capable of respecting the rights of others. Hence I have thought it proper, as a Democrat, as a member of that party that has always endeavored to maintain vested constitutional rights, everywhere, in the Individual Man—in the Sovereign States—in Communities, and in the Church, to declare explicitly and fully where I stand upon this broad question. And there I trust I shall always stand; and that, occupying this ground, I shall always, as now, find myself sustained by the record and the principles of the proud party to which I belong. When that party ceases to vindicate and uphold vested constitutional rights, then, and not till then will it cease to possess my affections.

Sir, nothing seems to me so gross, so inconsistent, so ungrateful in a republican state, in a community based upon a recognition of the rights of the people, as an act of aggression upon a religious institution. Have Senators forgotten that iron age of despotism when the Church was the only power that could "curb the great and raise the low?" When the only refuge of the vassal from the helmeted knight or the crowned oppressor was the altar of the Church within whose sacred circle no enemy dared to venture, even though he bore a sceptre! For ages this was so, while the people were struggling for that recognition which in the formation of our Constitution they obtained. And now, in this land, consecrated to those principles in their struggle for which the people always found an ally in the Church; in this land, we see the powers of the State invoked to strike down the chartered rights of a constituent element of that church.

Again, Senators, do you not know that it is in the first century of the Christian era, in the organization of the primitive Christian Church, you find the only model from which your representative government—your government of a representative republic—is taken? Read the history of the Church in the first century of the Christian Era, and you will see in its organization the model from which, more than from any other human organization, was moulded by the Fathers of the Revolutionary age, our own form of government. Thus it is that from a State sprung, as it were, from the very loins of the Church itself, a blow fatal to its advancement and its peace is to come!

It is no new thing, Mr. Chairman, for me to find myself maintaining the views I now advance. I had the honor to hold a seat in the Assembly in the two sessions of 1847, when the same question was before the legislature; when the same effort was made to despoil Trinity Church; and I stood then, as I stand now, battling to maintain the ancient and indisputable rights of that venerable corporation. I stood then, as I wish I could stand now;—in an Assembly that unanimously rejected, and spurned from their threshold this scheme of aggression. The whole question was then fully argued, maturely considered, discussed day after day before the Committees and in hearing of the House, and the project of spoliation was dismissed from the chamber, without even a solitary vote!

What influence, Sir, has penetrated our politics, our legislation, that in ten brief years we find this aggression menaced anew in such a form as to give rise to most serious apprehensions, all over the commonwealth, that the act—the fatal act—may not be stayed? What is it that reveals to us the extraordinary spectacle of eminent leaders of a powerful party, around this circle, ready to enter upon a crusade, not *for* the Church, but *against* it? Sir, when I see gentlemen representing, and eminently entitled to represent, the dominant party in this chamber, conspicuous in this outset, I am induced to ask "what are the motives that influence their action. What is there in Trinity Church, its history or ministrations, or the venerable religion of which it is so benificent a representative, that renders it the object of their powerful and organized assaults?"

The anti-slavery or republican party, which is in the ascendant in this chamber and in this legislature, arose to power—upon what? Upon that sympathy latent in every human heart, which looks with kindness and favor on whatever is abstractly right. An effort to mitigate the social and domestic condition of a portion of the human race, whom they thought in an abstract point of view, entitled to certain rights withheld from them, led to the organization of that party. After a struggle which lasted a generation, circumstances enabled it to appeal successfully to those sympathies and feelings which sway the masses of the State, and it ascended to power. No sooner in power,—a power based upon this element of love and reverence for what is abstractly just and true, than they are found, through their leaders on this floor, entering upon a crusade against the vested constitutional rights of an ancient, a venerable religious corporation. Sir, this party, struggling long and patiently against prejudice, and opposition, and contumely, forgetful of its own record, and of that law of human nature through which it emerged from the insignificance of an obscure faction, signalizes itself in the first year of its success, by imitating the very sin—the oppressive exercise of arbitrary power—against which it has so long disclaimed, and against which it has struggled with so much determination. Like that ruler of the Ottoman race, who was brought from a dungeon in which he had been incarcerated from childhood, to be crowned; but whose reign of only a month, was marked by so many and such inveterate cruelties, that he was assassinated in the Seraglio.

Mr. CUYLER: I thought it was a Democrat who introduced this bill.

Mr. SICKLES: No sir, it was not introduced by a Democrat. It was introduced by my colleague (Mr. Spencer), who was elected by the Democracy, but who now agrees with the Senator (Mr. Cuyler), and his political associates on the fundamental issues which divide the Democracy from the Republican party; he, having first abandoned his party, has led this onslaught against his own church.

Mr. SPENCER: I don't think the Senator can justly say that. In 1855, when I held a seat in this body, a resolution was unanimously adopted, calling upon Trinity church for a report. I knew nothing of that resolution prior to its adoption, nor did I know from whence it came. The report was made. Its statements were disputed, and it was referred to a committee to investigate. That was the first I knew of the matter.

Mr. SICKLES: There is no difference in law or in morals between the principal and the accessory before or after the act. It is no matter who conceived this scheme; there is no difference between him and the one who endeavors to carry it to a successful termination. Or, if there is any difference, it is only the difference between the prosecutor and the headsman.

But, sir, I turn now to my honorable friend from the 6th, (Mr. Brooks), the leader of the American party; an eminently conservative public man, possessing in a prominent degree the affections and regard of his constituency because of his known conservative tendencies and convictions, and I find him departing from the long and honorable record which sent him there—and upon that record rests his truest fame—joining this assault upon a venerable and good church.—I find him, sir, bringing in a second proposition to partition the estates of this church, confided to its pious uses, and so possessed and administered by it for nearly two centuries.

I am the more amazed at this spectacle, sir, than at the other which I have just attempted to depict, because my honorable friend is the leader of the American Party,—*par excellence*—a lover of the Union; of every element which forms it; of every ligament that binds it; of every tie that tends to make it perpetual and glorious. Yes, I find him—the representative and leader of this great conservative constituency and party—ready to aim a blow at one of the strongest sinews that bind the American Union. The Protestant Episcopal Church is an institution, embracing the whole land; knowing no North, no South, no East, no West. It is a religious institution that has not subordinated its organization, its dicipline, or its administration to the political accidents or contingencies of the day; but rather believing that it is to exist for all time, confines itself to the legitimate sphere of

its holy mission, and never has polluted its pulpit with the stain of politics. Sir, I should think that the honorable Senator, (Mr. Brooks) above all others,—conservative, national, patriotic as I know him to be,—would be the last to lift his hand against such an ally.

The Protestant Episcopal church in this country, is as a religious organization, in its House of Bishops and in its organic law, a type of the Union. It has always been the guardian of order—the defender of the constitution and the Union. Sir, this consideration is conspicuous among those which impel me to feel a warm solicitude for the result of this contest, and prompt me to enter into it with zeal and ardor.

Mr. Chairman, let us see how this question has come to the Senate. My colleague from the 5th (Mr. Spencer) has adverted to it; and I will allow myself to be diverted, in view of his statement, from the order in which I had proposed to present the origin and present state of the question. We have two bills on our table, one reported by my colleague from the 5th (Mr. Spencer) from the Select Committee by whom the subject was brought before us, and another introduced by another colleague, the Senator from the 6th (Mr. Brooks). I propose in my argument to confine myself, in the first instance, at all events, to the proposition of the Senator from the 6th (Mr. Brooks). But on referring to the history and present condition of the question, I shall embrace in my remarks both propositions before the Senate.

Sir, this Committee, clothed with certain very limited powers of investigation, and from which has emanated the bill which forms the basis of this movement, was raised the very last night of the Session of 1856. In the last excited, heated, angry, tumultuous hours of that session, the proposition was introduced into this Chamber, and was carried through without discussion—without debate—without consideration, which initiated this onslaught upon the Church. And, Sir, if it had been discussed; if time for reflection and deliberation had been allowed, no such resolution would have passed that body. As it was, I should have availed myself of the opportunity to discuss it; I should have done more than record my silent vote against it, had I not been assured by the honorable Senator on my right, (Mr. Spencer) that it was a resolution to which there was no objection on the part of the Church or from any quarter; that it was not such a resolution as I had before opposed, and which as the Journal shows, had been rejected on the 19th of March, 1856, by an emphatic vote. Under that assurance I allowed it to pass; not by my vote, for under any circumstances, whether the church had acquiesced in it or not, I should not have given it my vote, and I did not, because it was an enquiry beyond the jurisdiction of the Senate.

Now, Sir, on page 386 of the Senate journal of '56, under date the 19th of March 1856, we can find what was the deliberate judgment of the Senate at its last session upon this question when fairly presented and considered. I will read from the journal:—

Mr. Richardson offered, for the consideration of the Senate a resolution in the words following, to wit:—

Resolved, That the select committee, composed of Senators Spencer, Noxon and Ramsey, to whom is referred the report of the Vestry of Trinity Church, in the city of New York, in reply to resolutions of the Senate passed April 13, 1855, are hereby authorized and required to ascertain the facts, information, matters and things contained in said resolution, and the reasons for the insufficiencies and evasiveness of such report; also the value, condition, tenure and title of the property and real estate mentioned in said report, and such other real estate as said Trinity Church may claim to own or be in possession of, and report the result of their investigation to the Senate at the next session of the Legislature; and that the said committee, for such purpose, are hereby authorized to hold meetings and conduct the necessary examinations after the adjournment of this Legislature, and have power to send for and examine persons and papers, and to administer all necessary oaths or affirmations, necessary in the proper discharge of their duties.

Pending discussion on the above resolution, the hour of 12 o'clock having arrived, the Senate went into Executive Session, and after some time spent therein, the doors were opened and legislative business resumed.

The President put the question whether the Senate would agree to the said resolution of Mr. Richardson, and it was decided in the negative, as follows:

For the affirmative—Messrs. Bellinger, Ferdon, Lee Richardson—4.

For the negative—Bradford, Briggs, Brooks, Clark, Hale, Halstead, Harcourt, Hotchkiss, Huntington, Kelly, Madden, Nichols, Patterson, Rider, A. M. Smith, C. P. Smith, J. A. Smith, Sickles, Upham, Wadsworth, White —21.

This resolution, Sir, which is in substance, similar to the one hurried through in the last hour of the session, though not so disingenuous and disguised in form, was debated, considered and deliberately acted upon; and with what result, the record I have read will show. There were four affirmative and twenty-one negative votes. This was the real judgment of the Senate; repudiating, rejecting, scouting the whole scheme at its very initiation. But, Sir, those who are artful in legislation understand very well how easy it is to get a measure through in the last hurried hours of the session, which at any other time would be certain of rejection. It is then, in the excitement and confusion which prevail, you hurry through, without detection those monstrous schemes which you have even already rejected in your calmer judgment. It has become proverbial that the midnight hour, at the close of the session, is the moment when all those corrupt schemes which cannot bear exposure to the light, are smuggled through the forms of legislation. Then it is,

amidst a confusion of subjects and an exhaustion of frame, which renders it impossible for the human intellect to grasp half the topics that are hurried before it, that schemes, of spoilation and mischief whether in Federal or State Legislatures, are matured and executed. And such Sir, was the hour, and such the manner, in which this monster was born.

But although this was no new scheme in its object, yet in the manner and mode of its execution—I say it for the honor of the State, and for the credit of those who have heretofore taken part in the movement carried on against Trinity Church,—it was unprecedented. In 1847 a like attempt was made to give the control of Trinity Church to those not of her parish, nor belonging to her congregation. The attempt was made in both Houses of the Legislature; but it was a respectable attempt; eminently so in the mode and manner in which it was brought before the Legislature; open, manly, straightforward; introduced here on the authority of reputable names; advocated by lawyers of ability; and pressed on the judgment of the legislature on respectable grounds, and by reputable means.

Mr. CUYLER: Will the Senator give way? I see it is the hour of our usual adjournment.

Mr. SICKLES: Certainly. I will give way to a motion for a recess.

The committee of the whole then rose and reported progress on the bill, which was made the special order for 7 o'clock in the evening, and the Senate adjourned.

IN SENATE.....April 3, 7 P. M.

Mr. Sickles resumed his argument. He said:

Mr. Chairman: When I gave way for a recess this morning, I was about calling the attention of the committee to the aspect which this question presented when brought before the Assembly in the Legislature of 1847. Before I proceed, however, with what I have to say on that point, I will supply an omission which I deem of some importance as to the position of the question here at this time. I read to the Senate this morning the resolution of inquiry of the 19th of March, introduod by the Hon. Senator from the 19th (Mr. Richardson); a resolution which, the Senate will remember, stated with much distinctness the several points to be embraced in the inquiry sought to be instituted; a resolution which called up all the merits of the question, and which was emphatically voted down.

I omitted to read, however, the resolution which passed the Senate on the last day of the session, and to direct attention to the difference between the two. The second resolution was offered by the Honorable Senator from the 22d, and is in these words:

"Mr. NOXON offered for the consideration of the Senate the following resolution, to wit:

"*Resolved*, That the select committee to which was referred the report of Trinity church, be authorized to examine into the matters connected therewith, during the recess, and to report to the next Legislature."

A resolution, Sir, not calling the attention of the Senate to any feature proposed to be embraced in the inquiry which it authorized; a resolution not justifying, in any sense, the inquisition that was afterwards in fact established, or the unprecedented range of inquiry which it was made to embrace. An inquisition, I say, because substantially it was so; for the inquiry was stringent, severe, secret and unlawful. That it was stringent to the utmost limit of severity, any one who reads the evidence can see for himself. That it was secret, is proved by the fact that a copy of the testimony was refused to the corporation, and to the highly respectable persons attempted to be impeached in the inquiry, although they offered to pay the expense incurred in making such copy; unlawful, because the whole subject matter was without the constitutional jurisdiction of the Senate.

Now, Sir, I want to emphasize for the attention of the Senate, first, the contrast between the full and explicit resolution rejected after discussion by an overwhlming vote on the 19th of March, and the resoluion passed without examination on the last night and in the last hours of the Senate; and secondly, the contrast between the sphere and scope of the enquiry apparently contemplated by the last resolution, and the infinitely wider range taken, assumed, *usurped* by the committee formed under that resolution, when they got to New York, after the final adtournment, and were beyond the control of the Senate.

This leads me to contrast once more the state of the question as brought before us now, and the manner in which it was presented to the Legislature of 1847. That, Sir, was a manly, open, straight-forward presentation of the issue. The parties to that enquiry then brought before the Legislature the legal question—pure and simple—involved in the matter; whether or no, by the charter of the corporation, those persons who now claim the right to participate in its government, have any legal title to do so. That was the naked question presented to the Legislature of 1847, and decided, as we saw this morning, by an overwhelming expression of the Legislature against the applicants.

And here I may say that the Legislature of 1847 was chosen by the people of the state, to mature the laws necessary to put into operation the new constitution of 1846; a Legislature of distinguised ability, and numbering among its members some of the soundest lawyers and ablest men in the state. In the Assembly, the judiciary committee were unanimous in their decision against the application, and their report was sustained in the House without a dissenting vote.—In this branch of the Legislature, the majority of the committee were adverse to the applicants, and were sustained by the Senate.

Now, Sir, let us go back again for a period of thirty or more years, when the question was before the Legislature of the State, in the application made on behalf of Trinity corporation, for the passage of the act of 1814. The matter was then brought to the attention of the Legislature

by the corporation itself, in a memorial under its own seal, one or two extracts from which I propose to read. And I go into this elaborate statement of the question as then presented and as presented now to us, in order to show that these gentlemen of the committee, in the bill which they have presented here, have brought no new matter to the attention of the Senate; have raised no new question; have discovered no new grievonce; but have merely dug out of oblivion an ald thread-bare, worn out controversy, which has been settled over and over again in the most formal, deliberate, satisfactory manner, and acquiesced in by ninety-nine out of every hundred of those who had ever taken a different view of the subject.

Sir, you would suppose from the manner in which Trinity Church has been put upon trial here at this time, and from the bitterness with which she has been assailed in this discussion, that she had shrunk from this issue; and as if conscious of being in the wrong, had evaded enquiry as to the tenure by which she holds her possessions. Why, Sir, the first two occasions on which the attention of the legislaure was called to the point now in dispute, were occasions when the subject was brought up upon the memorial of the church itself under its corporate seal. Let me refer Senators to the petition bearing date the 25th January, 1814.—This petition, presented to the Legislature by Trinity church, called attention directly to the subject now before us; predicated upon which and upon the enquiry and investigation connected therewith, the law of 1814 was passed, which, it is now proposed to repeal, and which it is alleged the corporation obtained through some extraordinary influence; by deception, by misstatements of the truth. We shall see how entirely without foundation are these accusations.

After a brief introduction of the subject matter the petition goes on to say that after the revoluiion, "an act of the Legislature passed for making such alterations in the charter of the corpor-, ation of Trinity Church as to render it more conformable to the constitution of the State; by one clause whereof all the rights, privileges, benefits and emoluments which in and by the said charter were designed to be secured to the inhabitants of the city of New-York in communion of the church of England, were conferred upon all persons professing themselves members of the Episcopal church, who should hold, occupy, or enjoy a pew or seat in the said church, and should regularly pay to the support of the said church, and such others as should in the said church partake of the holy sacrament of the Lord's Supper, at least once in every year, being inhabitants of the said city.

"That since the passing of the act above referred to, the pew holders of Trinity church and of the churches or chapels belonging to the said corporation, and the regular commnicants therein, have been the only persons admitted to vote at elections for church wardens and vestrymen of the said corporation according to the just and fair construction contemporaneously and ever since given to the said act.

"Your Petitioners beg leave further to show, that in consequence of the rapid and unexampled increase and prosperity of our country since the said revolution, and the corresponding growth and population of the city of New York, Trinity church, aforesaid, with the churches and chapels belonging to its corporation, became insufficient for the accommodation of all the inhabitants of the said city who professed themselves members of the Protestant Episcopal church, or wished to become so, on which account, and for a variety of other reasons not necessary to be suggested, numerous persons of this description have been induced from time to time, to form themselves into distinct corporations, *each having its own peculiar endowments and places of worship, with rectors and other officers of their own choice, totally independent of any control or interference of your Petitioners.*"

Now, Sir, this sets forth precisely the state of facts existing in 1814, and shown to exist now, to wit: in consequence of the growth of the city and the increase of the population, persons formerly members of Trinity church, and entitled to participate in the control of its affairs, had gone out of the parish; had formed themseves into new congregations; had erected new churches, which had themselves become incorporated, and were now entirely distinct from and independent of Trinity. And then the petition goes on to show,

"That a number of such religious corporations have accordingly been organized as the law directs, some with and some without the concurrance of your petitioners; to all which your petitioners have made liberal donations, and with whose internal concerns your petitioners or any of the members of the corporation of Trinity Church, as such, do not claim any right to intermeddle; *nor do the said corporations possess or claim any right for themselves or their members to vote in the elections, or regulate the affSirs of Trinity Church.*

"Nevertheless, *a few individuals* belonging to such separate corporations, have recently pretended to claim that right, and at the last annual election of church wardens and vestrymen of Trinity church, held in the month of March, in the year 1812, *two or three persons* being members of incorporated churches, separate and distinct from your petitioners, tendered themselves as voters; but their votes under an ordinance previously passed by your petitioners, were rejected, and no measures have been yet taken to enforce or establish the right so claimed.

"It must be obvious, however, that attempts of this nature can not fail to produce strife and litigation, and to foster and keep alive pretensions of the most unreasonable nature and of the most mischievous tendency.

"Your petitioners are, moreover, sensible that since the formation of such distinct corporations, the corporate name by which your petitioners are designated has become inapplicable, and

ought to be changed; as they do not comprehend in their body all the inhabitants of the city of New York, who now profess to be of the Protestant Episcopal church; and your petitioners are further convinced that it has become essential to the peace and harmony of said church, *that* ALL DOUBTS *respecting the persons entitled to vote for church-wardens and vestrymen of Trinity church, which may exist or arise in consequence of the said separate incorporations*, SHOULD BE FINALLY OBVIATED AND SETTLED!"

Mark well the fact, that a number of these new churches, these new congregations, had been established; had become incorporated; that the great body of these new corporators, and the corporations themselves, disclaimed any intention to interfere in any manner with the government of Trinity; but that "*a few persons*" belonging to such separate corporations, and being members of churches distinct from Trinity, asserted this novel and extraordinary right to vote at her elections. And this, let me remark here, is the first record any where, of the assertion in a formal manner, of this right by persons not members of Trinity corporation.

Now, what does Trinity church say when this pretence is for the first time set up? Does she evade the issue? Does she flee from the contest? No; she waits a reasonable time to enable these persons, or some one of them, to enforce their pretended claim in the courts of the State, which they had a perfect right to do, and which would have been the proper and legitimate course to pursue; and finding that they did not choose—for good and sufficient reasons, no doubt—to take the case into the courts of justice; and anxious that no disturbing element should be allowed to distract the harmony of the parish, or disturb the repose of the church at large, she comes here represented by her officers, and over the seal of her incorporation, frankly and fully puts all the facts before the representatives of the people; and asks the legislature of 1814 to pass such a law in the premises as in their wisdom may seem just and proper.

Well, Sir, on this petition, after full consideration of the subject, the law of 1814 was passed; and although, Senators, in reading these extracts from the petitions and the laws, I am wearying your patience with matters to which you have already listened, yet they are so important, so vital to a full understanding of the merits of the case, that even at the risk of wearying your indulgence I shall continue to read somewhat fully from the statutes, Charters and grants bearing upon the line of argument I intend to pursue. Let me now draw the attention of the Senate to the second section of the act of 1814, which it is proposed to repeal:

"II. *And be it further enacted*, That all male persons of full age, who, for the space of one year preceding any election, shall have been *members of the congregation of* Trinity church aforesaid, or of any of the chapels belonging to the same, and forming part of the same religious corporation, *and who shall hold, occupy, or enjoy a pew or seat in Trinity church*, or in any of the said chapels, *or have partaken of the holy communion therein within the said year*, AND NO OTHER PERSONS, shall be entitled to vote at the annual elections for the church-wardens and vestrymen of the said corporation."

I will now read an extract from the fourth section of the same act, in reference to St. George's church, which is declared a separate church from Trinity. It is one of the new churches described in the petition:

"*Be it further enacted*, That the separation of St. George's chapel, in the city of New York, from the corporation of Trinity church, shall be, and hereby is confirmed: and that the said church now called St. George's church, shall not at any time hereafter be held or taken to be a church or chapel belonging to Trinity church, so as to qualify any of the congregation thereof to vote at the elections of church-wardens and vestrymen of Trinity church, above mentioned."

And now a further fact from the fifth section:

"*And be it further enacted*, That when, and as often as it shall seem expedient to the said rector, church-wardens, and vestrymen of Trinity church, in the city of New York, to divide the congregation or corporators belonging to the said corporation, it shall be lawful for them so to do, by setting apart, *as a separate church*, any of the churches or chapels that may belong to and form part of the said corporation, provided the same be done with the assent of a majority of the persons entitled to vote as aforsaid, who shall belong to such church or chapel intended to be set apart, and who shall attend a meeting to consider of such separation after at least ten days' notice previously given for that purpose in the said church or chapel, during or immediately after divine service; and such separation so assented to, shall take effect according to the terms agreed upon between the parties; and the members of the congregation of such church or chapel so separated, shall immediately thereafter *cease to be members of the corporation of Trinity church* above mentioned, and may proceed to incorporate themselves according to law as a separate congregation of the said Protestant Episcopal church."

Thus, Senators will perceive that in the act of 1814, the whole controversy was met and settled; first, the question was disposed of, as to who should and who should not be entitled to vote at the elections for Wardens and Vestrymen; secondly, ample and explicit provision was made for the contingency then foreshadowed and now realized—the increase in the number of churches, owing to the then probable and now real growth of the city. By the law passed in 1801, ant confirmed in 1819, all persons in communion with the Protestant Episcopal church, not members of *any other congregation* were authorized to form themselves into new congregations and become incorporated. The law of 1814 was made even more emphatic and distinct upon this point than the law of 1801. This law of 1814, passed

on the memorial of the corporation, was in all its provisions accepted by the corporation *and become a contract between it and the State.*

There was one other period, antecedent to the act of 1814, when the same question arose; I refer to the act of 1784, and the proceedings which led to it; it was then dimly foreseen that a question could possibly arise between those members of the corporation of Trinity church, who remained within its congregation, and those outside the congregation who might under the original charter, as some construed it, claim the right to participate in the government of the church. Let me read to the Senate, that portion of the act of 1784, descriptive of the persons who shall be entitled to the rights and privileges of the corporators to vote for its Rector, Church Warden and Vestrymen. "An Act for making such alterations in the CHARTER OF THE INCORPORATION OF TRINITY CHURCH, as to render it more conformable to the constitution of this State."

"*And whereas* doubts have arisen on those parts of the said charter and law first above mentioned, which speak of inhabitants in communion of the said church of England; for removal whereof;

"III. *Be it further enacted by the authority aforesaid*, that all persons professing themselves members of the Episcopal church, who shall either hold, occupy, or enjoy a pew or seat in the said church, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the holy sacrament of the Lord's Supper, at least once in every year, being inhabitants of the city and county of New-York, shall be entitled to all the rights, privileges, benefit and emolument, which in and by the said charter and law first above mentioned, are designed to be secured to the inhabitants of the city of New York in communion of the church of England."

I said, in reading the petition that led to the act of 1814, that the statement therein that a few persons had asserted in a formal manner the right to participate in the control of Trinity church, was the first instance on record of such a pretence being set up. It ought to be stated that the act of 1784, while it furnishes no evidence that any such demand was then expressly asserted, yet adverts in the preamble to doubts that have arisen about those parts of the original charter, which describe the persons who shall be entitled to the rights and privileges secured thereby; rendering it just possible that such demand may have been made or menaced prior to 1784; but as far as I know there is no record of that fact.

This act of 1784 was also passed with the consent of the corporation, was accepted by it, became part and parcel of its fundamental law, and guaranteed to the church all the rights, privileges and immunities which it conferred or confirmed.

The passage of the law of 1784 was rendered imperatively necessary, no doubt, in order to adapt the organization of the church to the new state of things in this country. The revolution had occurred. Previous to the revolution, Trinity church had organic relations to the church of England—owing allegiance to the mother country, and it became necessary in view of the equality which had been established between religious communities and the separation between church and state which had been made the fundamental law of this country, that an act should be passed making the organization of Trinity church conformable to the Republican constitution of the state. This reorganization, then, was accepted by the corporation, acquiesced in by the corporators, and became a contract, as did the act of 1814; a valid and binding contract between the corporation of Trinity and the state—the sovereign power.

Now, sir, this history presents to us in a vivid light, the aspect of the question as it now appears before us. Here are certain persons presenting themselves before the Legislature, claiming the right to participate in the control of the affairs of Trinity, in derogation of a series of statutes, and a series of contracts entered into between the state and a private religious corporation. They ask the state, without the consent and against the remonstrance of the other contracting party, to annul the contracts thus entered into with so much solemnity, and acquiesced in by all the parties in interest for nearly a century.

Does it not strike every one at the very threshold of the argument, that if these parties have, as they claim to have, a legal right to participate in the government and control of Trinity corporation, the courts have abundant power to give them that right; to put them in possession of it; to secure to them the full benefit and enjoyment of it?

And yet they have never asserted this right in a court of justice; although it has been suggested over and over again to the persons themselves, who claim the right, that the corporation invited an adjudication of the question by a competent legal tribunal. Any one of them has only to offer his vote at one of the elections of the church, and if it is rejected to apply to the courts for a *mandamus* compelling the officers holding the election to receive it; or any one of the claimants may commence a suit for damages against the parties refusing his vote, and in that manner test the legal right. The English and American reports furnish numerous illustrations of this remedy; and there are familiar cases in the English reports, where the right was enforced with damages against the election authorities, who refused the votes. But the honorable Senator from the 2nd (Mr. Noxon) disposed of this suggestion, when made by the Senator from the 31st (Mr. Wadsworth) in a very summary way; in a way which must have been startling to those who took him literally. He said—"why, what an absurdity! To bring five or six thousand law suits against Trinity! Do these corporators desire to be involved in a long law suit with Trinity church, with all her wealth and influence?" And he exclaims with well affected surprise—

gratulations upon the ingenuity he displays in discovering what all the world will recognize as a novel, if not an improved, mode of church government. The Protestant Episcopal churches in New York—and there are over fifty of them—are each to send one delegate to a congress which in its turn is to send its representatives to participate with the vestry in the control and government of Trinity church. The Christian world has supposed heretofore, and all church government and discipline have heretofore recognized the fact that a church was a unit; that it was composed of the Rector, Wardens, Vestrymen and congregation. There is not, and there can not be found, I venture to say, in the history of any church, anything like the plan and mode of government devised by the Senator from the Sixth.

Mr. BROOKS: This is an extraordinary case.

Mr. SICKLES: A more extraordinary case was never brought before a legislative body, and I am glad my honorable friend can admit that it is. Yes sir, it is not only an extraordinary case, but an extraordinary remedy; and his remedy is the more extraordinary of the two, as I will endeavor to show.

The first observation I wish to make on the proposition of the Senator from the Sixth, is that while all those who have, since 1814, asserted the right to share in the control of Trinity corporation, have based their claim upon the ground that the act of that year was unconstitutional and void, the substitute of the Senator from the Sixth recognizes the validity and constitutionality of that act. And, sir, bear in mind that the moment you do recognize the validity and constitutionality of the act of 1814, you give up your whole case; because, if the law of 1814 is constitutional and valid, then is the contract it embodies, binding on the state and the corporation and all parties concerned; securing to Trinity, against all the world, the rights and privileges it confers, and depriving you of any ground on which you can let in the six thousand members of other congregations now so eager to control her affairs.

The next most remarkable feature of this proposition is that the Senator from the Sixth makes churches vote, and not persons. He forms an electoral college of the representatives of fifty churches, and this college is to choose half a Vestry for another church. It is certainly something novel, in church government, to turn a Vestry into a congress. It is somewhat strange for corporations, and not the constituent members of corporations, to vote.

I ask the Senator where he finds, in the charter of Trinity church, anything about churches voting? And if you do not respect the law of 1814 or of 1784, will you not respect the charter, when you remember that in every constitution we have framed, we have confirmed and declared inviolable all these charters of private incorporations, together with their franchises and possessions, deserved from the crown. I call on the Senator, to point out to the Senate that clause or word in the charter of this corporation which can be so construed as to permit separate and distinct corporations to vote in the government of Trinity church. Why, sir, this point alone, I venture to predict, with entire confidence, will prove to be, in the judgment of the Legislature, fatal to the measure proposed by the Senator from the Sixth (Mr. Brooks); for if he surrenders that feature of his bill, he abandons all. No where in the charter can you find any color or pretext for this proposition, and all will admit that the charter is conclusive; all will admit that the charter of a private religious corporation can not be altered in any way without the consent of the corporation.

Although the Senate, by resolution, recently overruled the decision of the Supreme Court of the United States upon the Dred Scott case, we shall scarcely, I presume, have the temerity to repeat the experiment so soon afterwards, by overruling the decision of the same Court in the memorable Dartmouth college case; and until we are prepared to do so, we must be content to live under that decision, and allow private eleemosynary corporations to remain sacred from the hand of the legislator or the touch of the spoiler.

No Sir, there is no warrant, no color in the law of the land, for any such attempt as is proposed by the Senator's bill, to invade the vested rights of this corporation.

Although the Senator's proposition is strangely in conflict with the claims heretofore set up by the pretended corporators, and equally in consistent with the bill reported by the committee, yet we find the committee, the claimants and the whole opposition eagerly accepting it; abandoning their own bantling and adopting that of my honorable friend, (Mr. Brooks). Why is this, Sir? We shall see presently. It is because it accomplishes at least the one grand object contemplated by those who are engaged in this movement. It enables them to grasp the estates of Trinity. It accomplishes that in the most effectual manner; and I presume this end being attained, the form in which it is to be done is to them a matter of the most complete indifference.

This section does another thing that is somewhat new. It makes one person at the same time a member of two church corporations, a member of two congregations, and an inhabitant of two parishes; an idea wholly incongruous with every notion of church organiaztion; and directly in conflict with the whole spirit and history of the church of England, out of which, and in accordance with the law and spirit of which, this charter emanated.

Now let us look at the second section of this bill.

"The rectors and two church wardens and twenty vestrymen to be chosen as provided in the preceding section, shall first apply annually from the income of said corporation the sum of," (and here is a very significant blank) "for the proper maintenance and support of said Trinity church and its chapels, and such further sums as may be needed from time to time, for the repair

"Why, the idea is preposterous!" He says, too, that Trinity would like nothing better than to go into the courts with these claimants. Well, Sir, all I can say is, that Trinity must be made of different material than most of us, if she would like nothing better than seven or eight thousand law suits heaped upon her head. She would find herself in even greater danger with seven or eight thousand lawyers after her, than she is now, however great may be her present peril. But all this amounts to nothing. Every body knows that any one of these pretended corporators—acting, if you please upon consultation, and in connection with the others—can conduct such a suit from its commencement to its termination. And not only would this be entirely practicable and proper, but it would also be greatly to the relief of the Legislature of the state; for it would prevent the necessity of these claimants coming here, invoking our interference in matters beyond our jurisdiction and of no sort of concern to us. For, Sir, allow me to say, that this is by no means the forum for the issues on which this question must turn. High as is the reputation for wisdom and fairness of those around this circle, and in the coordinate branch of the Legislature, I will take the liberty to say that it is most fortunate that these high and solemn judicial questions are withdrawn from this tribunal and confided solely to the judicary. A question like this, involving the law of contracts, requiring a knowledge of ecclesiastical law, of colonial law, of constitutional law, of English and American laws, is one of the most imposing that can be submitted to any legal tribunal, no matter how exalted it may be.

Look at these masses of bills piled up before us and not acted upon in these last days of the session, embracing every object of legislation, and rendering it impossible that we should perfect the necessary measures even for the government of the State: and then say whether we should be called upon now to act on a question like this, the discussion and proper consideration of which should justly occupy all the remainder of the session. Why is it then, Sir, in a matter like this,— from its nature and according to the law of the land, a subject for the consideration of the courts,—that from 1784 to 1857, the men who have asserted this pretended claim have always avoided the legal tribunals? Why do they come here asking us to usurp the functions of the legal tribunals, and to grant them the relief they have never had the hardihood to seek at the hands of any court of justice? Does it not show an utter want of confidence in the right and justice of their pretended claim? Has it been the practice of the Legislature of New York to devote day after day, and week after week, to the consideration of controversies about private rights, where the parties have a complete remedy in the courts? What has been the practice of the Honorable Senator from the 22d (Mr. Noxon), and his predecessors at the head of the Judiciary committee on such questions? Has he considered it his duty—had his predecessors, considered it their duty, to mature and present bills to the consideration of the Legislature adjusting controverted questions about private property belonging either to individuals or corporations, when the parties have an ample remedy in the courts of law? Never, Sir. They have been turned over to the courts where they properly belong. And what is there in this question to induce this extraordinary exception to a uniform rule, based upon eminently proper considerations of public policy?

Now, Sir, let us look somewhat in detail at the terms of the Bill before the Senate. In what I have to say I shall confine my attention, certainly at present, more especially to the proposition of the Senator from the 6th (Mr. Brooks)—I believe he calls it—or it is called for him—a compromise; something between the extreme rigor of the measure urged by these claimants and presented by my colleague from the 5th (Mr. Spencer), and the opposite view taken by the corporation of Trinity. We shall be able to see, very soon, how much claim it has to be called a "compromise." I think if any thing can be worse, it is infintely worse than the original proposition presented by the Senator from the 5th (Mr. Spencer); more in derogation of all those principles on which the private rights of persons and corporations rest, and more subversive of good government in religious corporations. Let me read the first section of his bill:

"§ 1. The church wardens and vestrymen of Trinity church in the city of New York, shall hereafter be chosen as follows:

"One church warden and ten vestrymen shall be chosen by the pewholders and communicants of said Trinity church and its chapels entitled to to vote under the second section of the act entitled 'An act to alter the name of the corporation of Trinity church, in New York, and for other purposes,' passed January 25, 1814. The other church warden and the remaining ten vestrymen shall be chosen by delegates elected by the vestries of the several protestant episcopal churches in said city, other than Trinity church and its chapels, in union with the convention of the diocese of the state of New York, in the manner hereinafter mentioned, that is to say: on the first Monday of March, in each year hereafter, the vestry of each of such last aforesaid churches, shall by a majority of votes elect a delegate to a convention to be holden for the choice of the said church warden and ten vestrymen of the corporation of Trinity church last mentioned, of the election of which delegate a certificate shall be made and signed by a majority of the vestry of such church, and attested by the clerk of the vestry. The persons so elected as delegates shall assemble in Trinity church in the city of New York, on Tuesday in Easter week, in each year, at eleven o'clock in the forenoon, and proceed to the election, by ballot, of the said one churchwarden and ten vestrymen of the said corporation of Trinity church."

Now I trust my colleague from the sixth (Mr. Brooks), will permit me to offer him my con-

or renovation of such church edifices and their furniture: all which shall be disbursed under the sole direction and discretion of the rector and the church warden and ten vestrymen so to be chosen by the pew holders and communicants of said church."

It can not be concealed that the congregation of Trinity church, ought to be very thankful for the liberality indicated here; for the disposition so graciously shown, which allows them, out their own estates, a donation for the support of their own church. How much that donation will be—how often it will be reduced, and how small it will eventually become, when fifty churches are brought in to overcome the votes which she and her chapels may possess in this congress of churches; how much it will be when the estate, now magnificent and capable of accomplishing infinite good in the city and state for the cause of religion, shall have been squandered and consumed by fifty churches, among whom it is to be divided—all this it is not difficult to foresee.

But observe, sir, they are kind enough to leave to Trinity all the religious cares and responsibilities of the parish; the support of the poor, the relief of the sick, providing the means of religious worship in the lower portion of the city;—these fifty churches would leave to Trinity all these pious duties, and graciously relieve her of a portion of her temporal cares, especially the care of her property. They say to Trinity, "you may attend to your pious mission down town; we have all gone up town to adorn the wealthy and fashionable portions of the city; we would like to quit your church and take your property with us; our congregations have acquired so much of their own, that we have learned well how to manage property—particularly how to keep it in our own pockets. You have a magnificent heritage; and while you, in your eminent piety, are engrossed with the care of the poor, the sick and the emigrants in the vulgar portions of the city, *we* can bestow our attention upon your charming estates."

Yes, sir, a stipend is to be appropriated annually for the support of the church, and—another kindness—they will allow Trinity herself to spend the generous gift, all by herself—free from the supervision and control of legislative or ecclesiastical critics. Let us now see what is to be done with the rest of the estate. I will read the third section of the Senator's bill:

"The rector and the said vestry of Trinity church, to be elected as aforesaid, shall apply the income of said corporation, and all proceeds of the sales of the property thereof, to the payment, first, of the interest upon its debt and to extinguishment of so much of the principal thereof, as they shall deem expedient, until the debt shall be wholly paid; and the residue of said income and proceeds to the support and extension of RELIGION and RELIGIOUS EDUCATION in the city and STATE of New York."

Will my colleague (Mr. Brooks), after he has found that portion of the original charter of Trinity church which lets in churches, and not persons, to vote, show me that other portion of the charter which bestows this property on the *State* of New York, as contradistinguished from the *city* of New York?

Mr. BROOKS: Trinity gives to the State now

Mr. SICKLES: Trinity *gives*, Sir, when she pleases—what she pleases—and to whom she pleases. But the Legislature can not give away her property.

There is a great deal of difference between giving away your own property and suffering it to be taken from you by force and given away by others.

Suppose the Senator should own—as I hope he does—four fine houses in the city; and suppose he should think proper, for good and sufficient reasons, in his judgment, to give one or two to his friends; would that justify the Legislature in appropriating the remainder of his property to a similar use? giving as our reason—"why, you gave away a couple of your houses yourself, and therefore what right have you to object to the Legislature giving away a couple more for you!" No, Sir, we have here a vast estate consecrated to religion and religious education to be expended by the persons and in the manner set forth in the charter and subsequent grants.—The wildest and widest construction ever put upon the charter is, that the grant was to the inhabitants of the *city* of New York, in communion with the Protestant Episcopal church. This limitation, at least, has always been recognized even by those who have disregarded all others.

The estate is to be distributed broadcast over this State, and this, we are told, is "no invasion of the charter;" is no encroachment upon vested rights! Why, Sir, what notion can Senators have of vested rights, if this is the construction put upon the phrase? If this is the "conservatism" of my colleague, Mr. Brooks, and of his party, save me from it! Tammany Hall never ventured upon anything so reckless and so unjust, and she never will.

Mr. BROOKS: Would you have dissuaded her from it, if she had?

Mr. SICKLES: Tammany Hall was never so low in political morality as to require any intervention to prevent her from entering upon a deliberate scheme of spoliation, such as this is demonstrated to be.

No, Sir, if I understand this proposition—and I think I do—it is an illustration of a very progressive age, and of a very progressive people. The Senator, (Mr. Brooks) who represents the great American party, finds it necessary to be moving, and he has become impetuous. He can no longer stand by principles recognized and established so long ago, and adhered to with such monotonous fidelity; he must have something new. Those who propose to divide the property of Trinity among the *city* churches only, are now behind the age—"old fogies." Two or three individuals as long ago as 1814, set up the claim on behalf of the members of the other Episcopal churches in the city, that they had

a right to participate in the control of the property and in the direction of the church and chapels of the parish of Trinity. But we find the Senator from the 6th making a great stride beyond this. Until he came into the field with his lively notions of progress, no pretence was ever set up, under color of law, that a division of the property outside the city was ever possible under the charter. But the Senator from the 6th (Mr. Brooks)—the progressive, the radical, the agrarian Senator—says that the property shall be distributed throughout the *State* of New York; and not for ecclesiastical purposes only; not for the erection and support of Protestant Episcopal churches; but for the "support and extension of religion and religious education" generally, in the city as well as the State of New York.

At this point, Mr. Sickles was interrupted by Mr. Richardson, who announced that he had just received intelligence of the death of a member of the other House, Mr. Babcock, of Oneida, and in view of that melancholy occurrence, he desired to move an adjournment of the Senate. Whereupon Mr. Sickles gave way, and the bill was made a special order for Saturday, at 12 M.

IN SENATE.....April 4th—11¼ A. M.

Mr. SICKLES not appearing in his seat, the president did not announce the special order (the New York Charter Bill), at 11 1-2 o'clock.

Mr. BROOKS said: Mr. President—The New York Charter Bill has been made the special order for 11 1-2 o'clock, and that hour has already passed. The Trinity Church Bill is the special order for 12, and I shall therefore move to postpone the consideration of the Charter Bill.

Mr. UPHAM: I understand that the Senator from the 3d, who is entitled to the floor on the Trinity Church Bill, is detained from his seat unavoidably, in consequence of the serious illness of his wife. He does not propose, however, to delay the final vote on the bill. I therefore suggest that the special order be postponed until Monday.

Mr. BROOKS: I desire to be heard, Mr. President, about one hour on this question, particularly after the attacks which have been made on the substitute offerred by me for the bill reported by the committee. As I also understand that the final action on the bill is not to be delayed, I move that it be made a special order for Monday, at 11 o'clock.

The motion prevailed.

IN SENATE.....April 6th—11 A. M.

The president announced the special order, and Mr. Darling took the chair.

Mr. WADSWORTH said: Mr. Chairman—The floor, as I understand it, was occupied by the senator from the 3d (Mr. Sickles), the last time this bill was under consideration, and when the committee rose. I wish to state that in consequence of severe illness in his family, and the fatigue he has undergone in consequence, he will be unable to proceed with the argument this morning. He would be obliged to any other member who would now address the committee, and I therefore move that if any senator desires to present his views, he be permitted to do so at this time.

Mr. RICHARDSON: When will the honorable senator from the 3d be ready to resume his argument?

Mr. SICKLES: Mr. Chairman—I beg to say that I throw myself on the indulgence of the Senate. I am willing to proceed now if the Senate shall think proper to require that I should do so; but it would be an exceedingly painful task. I shall, however, endeavor to continue my remarks as soon as possible.

Mr. RICHARDSON: Will it be to-day?

Mr. SICKLES: I hope so.

Mr. PATTERSON: Then I suggest we put the matter off until 4 1-2 o'clock.

Mr. WADSWORTH: I think the senator had better say 12 1-2 o'clock. The senator from the 6th (Mr. Brooks), desires to address the committee, and he will be here in the train at 11 1-2 o'clock. He may be willing then to address the Senate.

Mr. PATTERSON: We had better say 4 o'clock, and then go through with the matter, and proceed with other business now. We have spent too much time over it already.

Mr. RAMSEY: I should prefer postponing it one hour, and thus we can give the senator from the 6th an opportunity to speak.

Mr. NOXON: If I understood the senator from the 6th, the other day, he expressed a desire to make his reply, after Mr. Sickles had finally closed.

Mr. RICHARDSON: Yes, that is so. Will the Senate allow me to consult a few minutes with Senator Spencer?

After a few minutes spent in consultation, Mr. Ferdon moved that the committee rise and report progress on the bill.

This was carried, and the committee of the whole rose.

In the Senate, Mr. Patterson moved that the bill be made a special order for Monday at 4 P. M., and the motion prevailed.

Mr. Darling took the chair.

Mr. SICKLES: Mr. Chairman—I ought to apologize to the Senate for any delay which has occurred in the progress of this discussion, for reasons personal to myself; and the earnest solicitude I have felt in the question before us, while it has justified me in claiming the indulgence of the Senate, increases the sense of obligation imposed upon me by the courtesy of senators in postponing the consideration of the subject until it was convenient for me to be present.

When the bill was last before the Senate, I was commenting upon that section of the substitute offered by the senator from the 6th (Mr. Brooks), which proposes to apply the residue of the income and proceeds of the estate belonging to Trinity church to the support and extension of religious education "in the city and state of New York." I called on my honorable colleague

for some information as to the legality and propriety of this provision, derived from the charter of Trinity church, or from the grant by which Queen Anne conveyed the lands to the church, which are now the chief source of its income.

Every argument heretofore made on this subject by those who have sought to depose the corporation of Trinity from the control of her estates, has proceeded on the ground that at farthest, the churches, or the Episcopalians in the *city* of New York, are the beneficiaries of this fund. Never until now, when the proposition is made by the senator from the 6th (Mr. Brooks), has it been pretended that the *state* had any right at all to participate in the fund; or that the legislature of the state had any authority to divert by statute, any portion of that fund for the benefit of anybody outside the city. True it is that Trinity church, in the voluntary distribution of the fund, regarding it as confided to her in trust for the advancement of the great cause of religion, and religious education, has never allowed herself to be restrained by the limits of the parish or of the city; but what is commendable in her, as an act of generosity in appropriating her own, when untaken by the state through force, would become an outrage.

Sir, it is true that here and elsewhere, the motives which have actuated Trinity church in her liberal gifts to the country churches, have been impunged. In this debate she has been charged with an effort to "subsidize the country churches." A more cruel construction could not be put upon the liberality with which she has distributed her gifts all over the commonwealth. She has been charged with attempting by her gifts to gain co-operation and support here, in her struggle in the legislature. Sir, I think such a charge, from this time forth, will come with a very bad grace from those who support this bill. Here *is* an attempt to enlist the country churches against the very hand that has fed them; against those whom they have heretofore regarded, in the best and truest sense, as brethren. You seek, by inserting this clause in your bill, to win them to your support against the corporation which, for a long series of years, has been their steadfast friend. After this, then, let us hear no more of endeavors "to influence," of attempts "to subsidize" the country churches, or of "bids" made for their support.

But, Sir, perhaps from the pressure of the argument based on the charter, the grants, and the subsequent laws, Senators will find themselves compelled to strike out the word "State," and to limit the application of the residue of the proceeds, to the *city* churches. Well then let us see what becomes of the aid expected to be appropriated to the country parishes. Let us see who stands as the sincere friend of those parishes. Pass either the bill reported by the committee, or that introduced by the Senator from the 6th (Mr. Brooks,) and you give the control of the fund to fifty-four city churches, and entitle them to elect a vestry that will dispose of the money as those fifty-four churches see fit. After they have helped themselves, as they very obviously mean to do, for they can have no other object in seeking to get this law, how much, I ask, will be left for the churches in the interior of the State? Not one farthing. The only possible mode by which the surplus income of Trinity church can ever be applied to the relief of those really needing it, is to leave the control of the fund in the vestry, where it lawfully belongs; the vestry, free from the control of other city congregations, will exercise a just discrimination between the wealthy churches in New York, and the feeble establishments in the interior of the State. There is no doubt that a large share of the pressure brought to bear upon the legislature from the city churches in favor of this measure, has been induced by their failure to obtain money from the vestry of Trinity, the vestry preferring to give their surplus means to the poor churches in the interior of the State. If the demands of these opulent beggars of the city congregations,—representing masses of wealth beyond the value of the estates of Trinity herself, if their demands for money had been submitted to, we should not find them here, clamorous for plunder. But if Trinity had yielded to their enormous exactions how would it have been possible for her to aid the interior parishes, that so much needed her assistance?

The fourth section of this bill is as follows:

"§ 4. The church warden and ten vestrymen so to be chosen by the pew holders and communicants of Trinity church and its chapels, shall exclusively possess and control the church edifices with their *furniture* and the *church yards* and *cemeteries* belonging to said church, and shall protect the same from *trespass* or AGGRESSION. The said warden and vestrymen in this section mentioned shall also exclusively choose the assistant ministers and other parish officers, and with the concurrence of the rector, shall direct its religious services, and the *disbursement of its charitable collections*."

This, too, is a very liberal section. It is conceived in the very spirit of tenderness and charity to Trinity church. In this respect it is consistent with other parts of the bill. By the second section of your bill, you give her a donation out of her own estate, to take care of her church, to keep it in repair, to pay her priests and to supply her communion table; by the third section you distribute the balance generally over the city and state; but by this fourth section you reserve to her *for the present*,—until an occasion shall arise for a fresh law and a new division,—her chapels, her church yards, cemeteries, and her communion plate; and you go on and tell her that she must protect the same from "*trespass* and AGGRESSION." You command her to protect the little that is to be graciously left to her, from "trespass or aggression." Sir, I think there is a bitter irony in those words. After taking away from her, in defiance of the law of the land, four-fifths of her estates by an aggressive act not

paralleled in this country for injustice, you coolly tell her she must protect the rest from "trespass or aggression!" If, either of these bills should pass, vain will be the effort—foolish the attempt of Trinity or any other church to save itself from encroachment or spoliation. You give by your own act, a fatal sanction to such schemes. You encourage all who desire to imitate them, and disarm all who would oppose them. You degrade yourselves to the level of those vampires, who—to improve a street—would invade her church yards and disturb the sacred remains which have so long honored the earth with which they mingle.

Among the proofs which this bill discloses of the extreme liberality of its framers, there is yet another to be mentioned. You allow Trinity to disburse the charitable collections made in her own church and chapels. That certainly ought to receive an emphatic acknowledgment. This is a concession to her in the purest tone of Christian brotherhood, and it is conspicuously and industriously spread out in the statute which despoils her, as if in mitigation of the wrong.

Trinity church has out lived all the tumult, and fluctuations, and changes of a democratic government, passing through all the stages of its progress from the first incipient experiment, down to its apparently successful consummation, she has survived years of armed occupation of the city by a foreign foe; for two centuries she has escaped the hand of the aggressor. But as if in contradiction of the laws of human nature; as if to confound all reason; at a moment like this, when it seemed as if the day of her security and repose had come, she is menaced by a danger more formidable than any she has ever before encountered. Her possessions, which the English enemy would not confiscate or disturb, which the mob has always spared, the State, her natural protector, is now about to seize and control.

And what has she done to justify all this? What is the offence of her Rector, Wardens and Vestrymen? are they not good men? Have they not faithfully fulfilled their trust? Have they ever been impeached anywhere, until we have heard something like it in this debate, and to which I will refer presently? What has she done, or what have those connected with her done to excuse and palliate this assault upon her vested rights?

Sir, this business of partitioning the estates of those over whom we have no legislative control, has never been successful—is always dangerous, and is associated in the minds of men with transactions like the partition of Poland, the appropriation of the property of the Orleans family by Louis Napoleon, and the exploits of those Mexican Statesmen who alternately rob the treasury and fleece the church. This is an association which I should think, my conservative friend, the Senator from the 6th, would like to avoid.

There is a difference, between the proposition of my colleague from the 6th, (Mr. Brooks), and the one reported from the select committee by another colleague, the Senator from the 5th, (Mr. Spencer), which in justice to one or the other, ought to be mentioned. The proposition of the special committee, disorganizes the church and seizes the estate. The substitute of the Senator from the 6th, spares the church *for the present*, but takes the property. That is the whole difference, stated in a few words. The bill reported by the special committee assails the church because it proposes to give to the congregations of fifty outside churches, the absolute control of Trinity church, of which they are not members.

It allows the members of other congregations to appoint her Rector and the Ministers for her chapels; and it gives to a board of Wardens and Vestrymen, which her congregation does not elect, the absolute control of her church edifices, her churchyards, cemeteries and land, with power to sell, appropriate and use any and all of this property as they see fit. The proposition of the Senator from the 6th (Mr. Brooks), gives the church the technical and apparent control, for the time being, of her buildings, graveyards, communion table and charitable collections; but divides with those outside the church the control of all the remainder of her estate, and assumes to direct by legislative enactment the objects to be benefited by, and the mode of appropriation of the private property of a religious corporation.

I have invited my friends on the other side already to answer several questions. I have another one now that I propose to submit to them, to which it will be well for them to give attention; and I think they are bound to answer it, before they press either of their bills upon the Senate. I desire to be informed how it is that this legislature can pass either of the two bills now before it, if, as it said, the legislature had no constitutional authority to pass the act of 1814.

If, as all the lawyers and laymen against Trinity have contended, the act of 1814 was unconstitutional as an act of "judicial legislation;" if the legislature had no right to pass it because it was an interference with the concerns of a private corporation; if it disfranchised four thousand corporators; if, in violation of the charter and their vested rights, these persons were by it denied the right to vote at the annual elections for Wardens and Vestrymen of Trinity church; and if the act of 1814, which did all this, as you contend, be unconstitutional, because it was an act of "judicial legislation," and an interference with the government and property of a private religious corporation; how is it that the legislature gets the authority to pass either the bill introduced by the Senator from the 6th, (Mr. Brooks), or that reported by the special committee, both of which equally undertake to provide for the government, and the management of the property of the same private religious corporation? I hope to be favored with an answer to this respectful enquiry, and will pause to get it now, if it is ready.

Senators will bear in mind that in all these documents that have been laid on our tables, assailing the act of 1814, and justifying these bills; and in all the arguments which have been made on this floor and in the committee room, the ground has been distinctly taken, that the legislature had no right to pass the act of 1814, because it disfranchises the members of the other Episcopalian congregations who claimed the right under the charter to vote at the election for wardens and vestrymen of Trinity church.

This argument is no where more forcibly and more eloquently put, than in the very able address of Mr. Porter, before the committee; and I will add that no where in the State could be found a lawyer more competent to make an argument before any tribunal. I therefore do the highest justice to the other side, when I take Mr. Porter's argument as the best statement of their position; and I will establish by that argument, beyond a question or a doubt, that the legislature has no right to pass either of these bills. If I do not establish that position, then I am willing to abandon this discussion.

Now hear Mr. Porter at page 23 of his reported argument before the committee:

"The *disfranchised corporators* appeal to the Senate, not for favors but for justice. They are corporators by the original charter of 1697, by the colonial charter of 1704, by the royal grant of 1705, by the recognition of Queen Anne, in 1714, by the renewed legislative charter of 1784, by the subsequent state laws of 1788. Their rights were unquestioned until 1812. They were unimpaired until 1814. The corporators were then divested of their franchises by a mere act of legislative will, on the application of the trustees to exclude the beneficiaries of the trust. The exclusion was without their consent and without cause."

Again, on page 28:

"The matters developed in the course of this investigation *leave no room for doubt* that the law of 1814, so far as it was *an act of confiscation and disfranchisement*, WAS UNCONSTITUTIONAL AND VOID. It excluded corporators from their chartered rights *without their consent, thus directly impairing the obligation of contracts in violation of the federal constitution, and depriving citizens of their property and franchises without due process of law in violation of the state constitution. It was an act of naked judicial legislation, and not only assumed to pass judgment upon the rights of private citizens who had no opportunity to be heard, but pronounced a judgment directly at war with their rights as declared by the deeds of trust, and guaranteed by previous laws.*"

And this one further extract from pages 43 and 44.

"Even aside from these considerations, no American statesman, lawyer or jurist could entertain a doubt, in view of the facts to which your attention has been called in the course of this investigation, that the act of 1814 was unconstitutional *as an act of judicial legislation.*

"If it was, as we allege, an act of judicial legislation, I do not understand our adversaries to claim that it could be upheld as constitutional. Whatever doubts prevailed on that subject in 1814, the question has since been finally settled both in the State and the Federal courts. Is there any room for controversy as to the *fact* that it was an act of judicial legislation? It purported upon its face to be not a confirmation of pre-existing rights, but an act to *remove doubts as to what those rights were*, as you will perceive by reference to the recital in the law itself.

* * * * * *

"*In every aspect*, then, the law of 1814 was *unconstitutional*, as impairing the obligation of contracts, as divesting vested rights, as an act of confiscation and disfranchisement, as an act of judicial legislation."

Now then, what are these two bills before the Senate? They are both of them propositions to adjust and settle the rights of contending parties under this act of incorporation. Mr. Porter contends in his argument as we have seen, that the act of 1814 was unconstitutional, because it disfranchised corporators who were beneficiaries of the trust, and as such were lawful voters at the elections for Vestrymen of Trinity.

Now, I ask the Senator from the 6th (Mr. Brooks), what becomes of his bill under that argument? Does he not also disfranchise "the inhabitants of New York, in connection with the Episcopal church?" How will these inhabitants enjoy their right to vote, which Mr. Porter claims they have, in the election of wardens and vestrymen, under his (Mr. Brooks') bill, any more than they have under the act of 1814?—They will have no more right at all. His bill excludes them from voting at the elections for wardens and vestrymen of Trinity, provided to be held by the charter, as much as the act of 1814 itself.

In 1847 you asserted and now assert the right of each and every adult Episcopalian in the city of New York, in communion of the Protestant Episcopal church, to attend the elections held under the charter of Trinity, and to vote for the wardens and vestrymen of that congregation.—You have argued that inasmuch as the act of 1814 denied them that right, it is therefore unconstitutional. "It divested them," as Mr. Porter says, "of their franchises, by a mere act of legislative will, without their consent, and without cause." I ask the Senator from the 6th, and all who contemplate voting for his bill, whether there is any evidence before them, or before this Senate, that these corporators have now relinquished that right, or are willing to relinquish it to the churches to which they belong? The act of 1814 confined the right of suffrage to the congregation of Trinity church and its chapels. This bill excludes the members of other congregations, wholly, from any voice in the election of half the vestry, and gives to the other *churches* an indirect and limited voice in the election of the other half. Both are equally acts of disfranchisement—both ex-

clude from the elections held under the charter, those persons who now claim the right to vote. The measure my colleague has introduced, provides that each one of these churches shall elect a delegate to a convention, or congress, and that congress shall choose a warden and ten vestrymen for Trinity church. Those who it is contended are corporators of Trinity, are thus debarred from taking any part in the elections in that corporation; they are permitted in their own respective churches to vote for a vestry, which vestry elects a delegate to a sort of congress, and chooses this congress one half of the vestry of Trinity church.

Now, what is to prevent any one, or any number of these persons—these disfranchised saints who were so persecuted by the act of 1814—from coming here, and taking exactly the same ground with reference to your bill, as they now take with regard to the act of 1814, to wit: that the act was passed without their consent, and that they, as corporators, are divested thereby of their franchises as conferred by the charter?

Now, sir, this view of the case, in my judgment, is entirely fatal to the scheme of church government proposed by the honorable Senator from the 6th, unless he or his friends can produce at their leisure, some answer to this argument which does not seem to occur to them now, as I am not favored with it.

I have shown that Mr. Porter's argument is fatal to the proposition of the Senator from the 6th, and I will now show that it is equally fatal to the proposition of the Select Committee. In order to make this the more apparent, let us refer to the question and see precisely what it is. Here is a controversy between parties in New-York claiming conflicting rights under a charter. One side insists that under that charter, fairly construed according to law, they have a right to take part in the control of the affairs of a religious corporation. The other party claims that this alleged right does not exist. Now that is the question stated in an abstract form. That was exactly the question in 1814, and Mr. Porter's argument proves clearly, as far as the abstract proposition goes, that the legislature had no right to decide a controverted question of private right between the parties; that the act was an act of *judicial legislation*, and was therefore unconstitutional and void. The only fallacy in his argument, so far as it respects the law of 1814, and it is a fatal one—is this: he neglects to state that *the act of* 1814 *was founded on the memorial of the corporation itself, and, when passed, was accepted by it, and thereupon became a contract between the state and the corporation, and binding on both.*

That is the fallacy of his argument as far as the act of 1814 is concerned; but it is no fallacy as regards these two propositions now before the Senate, because they are *not* asked for by either of the parties—neither the corporation, nor the persons who claim to have been disfranchised. There is no proof before us that the corporation of Trinity, or those who claim the right to be corporators, have applied by memorial, or otherwise, for the passage of either of these bills, or that either of them will be accepted or acquiesced in by either party to the controversy. So, then, Mr. Porter's argument so far as relates to these propositions, holds good,—indeed it is entirely conclusive—although it is unsound when applied to the act of 1814.

You are then called upon, Senators, to settle a law suit, or what ought to be a law suit, between these parties. You are called upon to usurp the functions of the judiciary, and to decide between private persons, a litigated issue about private rights. You are called upon to repeat an act of legislation for parties whose distinguished counsel (Mr. Porter), tells you "no American statesman, lawyer or jurist, in view of the facts"—namely, that this was in 1814, and has been ever since, a question of controverted private right between two parties, arising under a charter which is in the nature of a contract and a trust, —"could entertain a doubt was unconstitutional as an act of judicial legislation."

It is possible that if those who now act as corporators, and those who claim the right to be corporators, had united in a request to the legislature, properly authenticated, for the passage of a law settling and defining, and confirming their several rights, and had waived our want of jurisdiction, that then we should have acquired the authority, as between us and them, to pass a law upon the subject. But is this the case? No sir; the reverse of this. Remonstrances are before us. Yes, remonstrances by the hundred, not only from the corporation of Trinity, but from the whole Episcopal body of the state, including large numbers of the very persons, members of the other city churches, whom it is proposed to enfranchise—deny the competency of our jurisdiction; they deny our right to impair the contract entered into in 1814; a contract which up to 1857 has been acquiesced in by all the parties interested, and which has never been assailed or questioned in court or out of court, in any legal manner.

You have yourselves, in the new legislation you propose, recognized the validity of the act of 1814. The bill reported from the special committee is entitled an act to *amend* the act of 1814. The whole conception of the bill is in conflict with the argument upon which you propose to justify and sustain it. You recognize throughout the bill the *validity* of the act of 1814, while your whole argument is based on its *unconstitutionality*. You go on and say, "section 2d of said act is hereby amended so as to read as follows:

"§ 2. Every male inhabitant of the city of New York, of full age, in communion of the Protestant Episcopal church, in the state of New York, who shall hold occupy or enjoy a pew or seat in any Protestant Episcopal church in said city, in union with the convention of the diocese of New York, or shall have partaken of the holy communion therein, within the year next preceding any election for church wardens and vestrymen,

to be certified by the rector, senior warden, or clerk of the vestry of such church, shall be entitled to vote, at all elections for church wardens and vestrymen of this corporation."

Now Sir, what does this section do? It proposes to decide a disputed question about private rights between two parties, which has arisen upon the charter of a church corporation, and the acts founded thereon. Is it more or less than this? If it seeks not that, it seeks nothing. If it does not accomplish that end, then the time spent upon it is wasted. And yet we have it on the authority of your own advocate, that you have no right or power to do any such thing. And Mr. Porter's view of the law, as might be expected of any view of the law emanciating from him, can be abundantly sustained by reference to leading cases on the subject, to some of which I propose in a few minutes to call the attention of the Senate.

I ought not, however, to pass over without comment, what Mr. Porter has to say as to the manner in which the act of 1814 was passed. He says: "Beyond all doubt, the Legislature would in this instance, if they had been frankly informed by Trinity of the facts as they actually existed, have confirmed the rights secured to the corporators at large by the original charter, and re-affirmed by the act of 1784. But Trinity stated only what suited the purposes she had in view. She referred to the antecedent grants, but in such terms as could not fail to mislead, and to divert the Legislature, the Attorney-General and the Council of Revision from the true character of the questions at issue."

Senators will remember the extract I read the other day from the memorial of Trinity church, asking for the passage of the act of 1814. Could anything be more frank and explicit than that statement of facts? The memorial set forth that doubts had arisen as to who were and who were not corporators of Trinity corporation; that two or three persons, although not residents of the parish or members of the congregation of Trinity or either of its chapels, had asserted a right to vote at the elections; that up to that time, no such right had ever before been asserted; that it seemed proper that the attention of the legislature should be called to the fact, because it was likely to lead to difficulties in the parish, and therefore the church asked the Legislature in their wisdom to pass such a law as they should deem proper under the circumstances. It is hardly fair then, to say that the case to be presented to the legislature was not disclosed; and I must be allowed to observe that it seems to me a very strange charge, to say that anybody could have "diverted the attention of the legislature, the attorney-general and the council of revision of 1814, from the true character of the questions at issue."

Why, Sir, on what did those issues rest? Upon the charter of 1697, upon the grant of Queen Anne and the acts of 1784 and 1788, accessible to every one, and to which any person could have referred. I say it seems strange, when we look over the list of those who held seats in the Legislature and in the Council of Revision of that year, to talk about concealing from them such palpable facts spread out on the record before them, or of diverting their minds from the true character of an important issue. The men who then occupied our seats in these halls, have since become distinguished in the public transactions of the state and the nation. The Council of Revision was imposed upon also, where sat a Kent and a Lansing! The memorial beguiled the Attorney General too!—Abraham Van Vechten—one of the most eminent lawyers of his times. The government of New York in that day—the Legislature, the Council of Revision, were then in the hands of a race of giants—Tompkins, Van Buren, Root, Van Vechten, Kent and Lansing, and men of equal intellectual stature—whom you must not compare with the dwarfs who now-a-days, unhappily for the state, are their successors. Such men were not easy to "mislead" or to "divert" from the merits of an important public question, upon which they were called upon to act. If I were required to look over the annals of the state, and select one Legislature upon whose acts, more than upon any other, I could repose with satisfaction and confidence, I should choose the Legislature and government of 1814.

Now, let us pass from this mere legal view of the bill, introduced by the Senator from the 6th (Mr. Brooks), and look for a few moments at its practical operation. Let us suppose it passed, and that we are witnessing the performances under it. In the first place, we have the election of fifty-four vestries in as many Episcopal churches in the city of New York. Now, it is easy to see what will be the issue in each of these elections. The issue will be, the control of the estates of Trinity church. This is the gauntlet thrown down at the sanctury of each of the fifty-four churches, and they are challenged to take it up. Well, these fifty-four vestries are elected, and they are to control the management and enjoy the property of Trinity.

What next? What is to be the next canvass; for we are to have three under the law. After the fifty-four vestries have been chosen, we have in each vestry an election for a delegate to what I have called, and shall continue to call till I am furnished with a better name, a convention, or congress of churches. In the vestries the issue will be low church against high church—for Trinity or against Trinity—one party will go for dividing up the money among all the city churches, another will prefer to leave it to the control of the corporation itself, and yet another (but a very small and feeble party I fear it will be) will go for a distribution through the State generally. We then come to the third election. We get the convention or congress together, and they are to elect a warden and ten vestrymen for Trinity church. Again the issue will there be, whether the vestrymen they elect shall agree with the ten elected by the congregation of Trinity church, or fight them upon the appropriation

of the income and proceeds of her estates. So the bill thus provides for three heated, excited, angry elections, which will extend their ramifications throughout the whole of the fifty-four churches; and these elections are to take place every year, constantly keeping alive dissension and acrimony among the congregations.

Senators, does this sort of legislation commend itself to your wisdom? If you resolve yourselves, as you propose to do, into a body fit and competent to frame and set in operation a system of church government, do you think such a scheme as this will reconcile the people to your first experiment? Do you fancy that this triple series of annual elections would tend to the edification of these fifty-four peaceful, happy congregations?

If such is your opinion, then I am bound, in courtesy, to presume that it is because you know more about church discipline than I do. I am not an expert in church government; you probably are. If this grotesque parody upon all that I have been accustomed to believe to be a judicious form of church government, is the embodiment of your more abundant experience, then I suppose it is proper for one so ignorant as I confess myself to be about such matters, to submit, without a murmur.

Sir, I can not but think that my colleague (Mr. Brooks) will very likely see introduced into these ecclesiastical elections, some of those horrors which he has sometimes so graphically depicted on this floor as taking place in our ordinary elections in the city. I am afraid he will have to devise some new registry law, to create some new boards of canvassers and inspectors, and to complete his bill by adding to it some carefully prepared machinery by which these ecclesiastical elections can carried on without fraud or violence. We know that human nature is the same everywhere; and I don't care whether an election be held for a Senator or a vestryman, if exciting issues spring up and angry controversies exist, the effect will be the same. The causes which produce excitement and disorder and deceit in a political election, to wit: the eager purpose to triumph, the desire to crush an opponent, the hope of gain, the love of power, the gratification of ambition, will, if they exist as they may exist in a church election, produce the same result.

When elections in churches are confined to their own local matters, as in these city churches they have heretofore been, it is easy to get along peaceably, calmly, and with decorum.

The elections in Trinity church are so conducted now, because none take part in them but those whose interests are indentified with the congregation which the vestry is to represent.

The vestry possess the entire confidence of their constituency; and well they may; for more able, high-toned and accomplished gentlemen, never held a trust, private or public, in the city of New York. So unreserved is the confidence felt by the corporators in the conduct of those to whom they have entrusted the affairs of the corporation, that, as we have seen from the record, it is quite unusual for a large vote to be polled. It is seldom that half of those entitled to vote, attend the elections. But the moment you undertake by a complex and extensive scheme of popular elections, to settle the controversy between those who have the control of Trinity, and those who wish to get the control, you throw into the whole Episcopalian community an element of discord, that if it does not bring disgrace upon a religious body now conspicuous for the gravity, dignity, and decorum which characterize its conduct, will certainly tend to endanger its successful devotion to some of the objects for which a congregation is formed—the promotion of "peace and good will among men." You array churches that should be the sisters of Trinity, against her. The friends of Trinity in the other churches, will be eager that Trinity shall be sustained in the elections. A majority of some congregations will be for Trinity, and a majority of others will be hostile to her. Thus you will array church against church, congregation against congregation. St. George will be against the Holy Innocents; St. Matthew's will be against St. John's; Grace against St. Paul; St. Bartholomew against St. Clement; St. Luke against all Saints; St. Peter against the Church of the Intercession; St. John the Baptist against the Epiphany; St. Mary against the Annunciation; and the Holy Evangelists, perhaps, against them all!

Well, Sir, here we have fifty-four angry ecclesiastical elections going on in one day in New York; an exciting issue, a heated controversy, a bitter conflict. It is not too much to fancy that we see the omnibusses rattling through the streets, crowded with eager voters, and vocal with strange election cries: "Three cheers for Grace church!"—"Hurry up more votes to Ascension!" "Trinity is ahead!" "Ho! for the Evangelists!" See the inflammatory handbills "Up with Trinity!"—"Down with St. George!" Ah! it will be no longer the St. George we have been accustomed to regard; but St. George and the Dragon—eager to enter the field of strife burning for the foray! But let us hasten to the churches. Hear the crowd around the doors, the police vainly endeavoring to preserve order, give three cheers for the Low church, three groans for the High church, and a tiger for the Bishop. Now approach the door, and see the eager ticket-pedlars pay their respects to each new comer:—"Are you against Trinity?"—"Can't you give us a vote for Grace church?" Mark how they follow that opposition voter along the aisle; how closely they watch him to see that he is a duly qualified voter; how spitefully they challenge and wrangle with him about his vote. Sir, pass this bill, and after you have seen a few elections under it, this will be no fancy sketch.

And what a time have you chosen for these extraordinary proceedings in the church? The season of Lent.

Mr. Brooks: We choose the season of Easter.

Mr. SICKLES: Oh! you had better say Good Friday—the day of the crucifixion! But Lent is to be the time; a season when the church should be all calmness, and at peace with herself; when every passion should be allayed and every excitement put to rest; a season of fasting and prayer. I shall advise the honorable senator from the 6th, if he passes his bill, to change the time of the elections, and to hold them after Lent. We can then have a carnival in New York; for these elections would rival the scenes of the carnival at Rome.

But let us pass from this spectacle. I now desire to call the attention of the Senate to some of the allegations and arguments employed by the Senator from the 22d (Mr. Noxon). In his speech delivered March 28th, he says that there has been an attempt on the part of the vestry of Trinity church, "to break down the committee in order to overrule and override the Senate of the state of New York." He charges the vestry with a corrupt use of their power to grant leases—with having used that power to favor relatives and friends. Here are his words:

"But the charge is that others hold on to, and administer the funds; and why is it that they so pertinaciously hold on to the church property and lease it out from year to year? Probably on account of some considerations not yet brought before the Senate. I surmise that in those same leases there is something that does not meet the eye. I fancy it may be found that some friend stands behind, in the back ground; some son, or father, or brother occupying this property and making a profitable thing out of these leases, I ask, what is it that should induce them to hold on to this property, unless something that the public can not see?"

Again he says:

"I do not deny that Trinity does much both for the city and country; but while I admit she does much, I do complain that she does not half enough. While she is enriching herself by holding on to her property, she does not give away half enough."

And he exclaims with a greet deal of emphasis, "Trinity never had any right to the property she now holds."

Now, Sir, I can not allow charges of this grave character, to be made here in this debate, against gentlemen who stand so high in the community, which I have the honor, in part, to represent; who have gone through life with reputations cherished and unchallenged up to the hour when they were thus rudely impugned; and I call on the Senator from the 22d (Mr. Noxon), as a manly and generous gentleman, either to make good his accusations, or to withdraw them before another sun goes down! This much is due to these estimable citizens—it is due to himself—it is due to this Senate. I am certain these accusations can not be maintained. Every one who knows these gentlemen, must know this; and I am sure these imputations must have been uttered in the excitement and ardor of debate, and not after such deliberation as charges so grave ought to have received. A corrupt use of the power to grant leases, to favor relatives and friends! Sir, a more serious accusation could not be brought against any one holding a trust. Where is the evidence on which the accusation is made? Does it not look like an effort to traduce the corporation, to assail it by all sorts of accusations, and under the noise and smoke of the attack, to justify the act of usurpation and spoliation you are about to commit. When I read these remarks of the Honorable Senator (Mr. Noxon), I could not help contrasting them with the report of the gentleman and his associates, upon the select committee, where I find these words:

"It will be seen that there is *no question raised in regard to the personal integrity*, AND NO IMPEACHMENT OF THE PURITY OF PERSONAL MOTIVES of *any member* of that corporation."

Immediately after the Senator from the 22d (Mr. Noxon), had signed his name to that eulogium, he rises in his place in the Senate, and charges these very men with a corrupt use of their power, as custodians of this property, for the benefit of relatives and the gratification of favorites. Sir, that *is* impeaching the purity of their motives; that *is* questioning their personal integrity. We have a right to enquire of the Senator why he did not spread out on the record here before us, the evidence of the corrupt use of this power, which he charges upon the vestry; we have a right to know why it was not investigated by his select committee when they visited New York? They investigated pretty much everything. They have collected here in this volume, every rumor, or suggestion, or whisper that has found utterance against the church for years past. Yet there is not one particle of evidence to sustain this most serious charge—not one single fact throughout the entire testimony to justify it. Now, Sir, I am authorized by a number of the gentlemen belonging to the vestry, to proclaim here in the Senate, for themselves and their associates in the most formal manner, in reference to this and the other aspersions to which I have alluded, that they wholly deny and indignantly repel these charges, each and all of them—as not only untrue, but without the slightest shadow of truth; and on their behalf, I will now read to the Senate the following statement:

"We wholly deny and repel these charges or insinuations as not only untrue but without any color of truth, as to any member of our body, and as unjust and injurious alike to our colleagues and ourselves. We have been members of the vestry for several years, and have had full opportunity to become acquainted with the management of its property and affairs. We now distinctly assert of our own knowledge that they have been administered not only without any corrupt motive or regard to the pecuniary advantage or personal interest of any of its members, or of their friends or connexions, but with constant and scrupulous care to do no act what-

ever that would in any way bear that construction.

"We have no object in defending the rights of Trinity church, now menaced, as we think, with unlawful aggression, but to do our duty as good citizens and guardians of an important religious trust."

Sir, I am authorized to make this statement on behalf of the gentlemen belonging to Trinity Vestry, and in the name of my city and my constituents, as a Senator, I here endorse every word and line of it as the truth, the whole truth and nothing but the truth; and now I call upon the Senator from the 22d, (Mr. Noxon,) either to make good his accusations, in the face of this challenge—or to do what I can not doubt that his impulses as a gentleman and his duty as a Senator will impel him to do;—abandon them!

The Senator from the 22d, also charges Trinity with being niggardly in her donations for the aid of other churches. He says she has not given away half enough. Why, sir, can he have forgotten the testimony of Gen. Dix? I ask all who heard the statement of the Senator, to read the testimony given before the committee by Gen. Dix, and then to judge for themselves. Why, they will find spread out all over the record here, so plainly that it can not be evaded or questioned, the fact that Trinity has not only given away all her income not actually employed, but has added, largely to her debt, in her bountiful gifts to other churches. That debt now reaches six hundred thousand dollars, and has been steadily increased by the corporation, to enable them to meet the more pressing wants of the congregations of other churches. At the same time, the Vestry rescue themselves from the imputation of bad financial management, because they call attention to the fact that within a very few years a vast number of leases will fall in, when the income of the church will be largely increased, and when by that means, or by the sale of a portion of her property she can release herself from the embarrassment which has temporarily resulted from the liberality of her donations. Let me observe here, that the notion that seems to prevail in many quarters, that the Vestry of Trinity, hold the income of that corporation as a trust for the benefit of all other Episcopalian churches in the state, has arisen from the uniform and munificent liberality with which she has supplied, out of the abundance of her means, the wants of other churches; because nothing can certainly be found in the grant of Queen Anne, or in the original charter, to give color to the pretence that Trinity holds her estates in trust for any church but her own.—Any one who had never read the charter and the grant from Queen Anne, might well suppose from the liberality of her gifts, that Trinity was under some obligation to make these appropriations. But when they do read them, they find that it is out of good will, from a sense of religious duty, and to advance the holy cause in which she is engaged, that she thus applies her means, and not from any legal obligation to do so.

I desire, Sir, to read one or two extracts from the testimony of Gen. Dix, to show what has been the financial and the ecclesiastical policy of the church, and what she proposes to do in the future; and then I desire that Senators, if they intend to erect themselves into an ecclesiastical council to direct the government and dispose of the funds of Trinity church, should contrast the exposition given by that distinguished gentleman of the past, present, and future policy of the Vestry, with what they may fairly presume would be the policy pursued after the fifty-four city churches get control of the funds of the corporation.

Gen. Dix says:

"Soon after my connection with the vestry commenced, my attention was attracted to the financial condition of the corporation, which seemed to me very unsatisfactory. Its debt amounted to nearly half a million of dollars, and by reason of the large donations it was in the habit of making to other churches its revenue had become inadequate to its expenditures, and the annual deficits were made up by a sale of property. I regarded this practice, though founded upon a generous consideration for the wants of other parishes, and a desire to promote the advancement of the interests of the Episcopal church in the city and the state, as opposed to all sound principles of finance. No fund or endowment can long withstand a regular consumption of its principal. Encumbered as the church property was by leases, it could rarely be sold in any considerable parcels, without serious sacrifice; and it was my opinion that the contributions of the church, instead of being enlarged should be curtailed, that its debt should not be increased, that its expenditures should, if possible, be brought within its income, and that its property should, as a general rule, be preserved until the expiration of its leases, when it could be sold without loss; thus leaving the church in a condition to carry out with vigor and success the great plan of ministration, which seemed to me to be clearly marked out by changes and progress in the distribution of business and population throughout the city."

So much, Sir, as to the condition in which Gen. Dix found the finances of the corporation when he entered the Vestry; when, by reason of these liberal appropriations—complained of here as not being half enough—she had consumed all she had to give out of her income, and had increased her debt; until the condition of her finances became almost alarming.

He proceeds to say: "This unlooked for expenditure, and the continued annual contributions to other parishes, which the vestry were unwilling to abridge, have carried the corporate debt up to the enormous sum of six hundred and sixty-eight thousand dollars; exceeding, by the sum of $469,000, its available bonds and mortgages."

He then proceeds to develope the comprehensive plan of ministration by which the corporation may fulfill its beneficent and pious mission in the city of New York:

"If Trinity church had followed the same instincts, which have drawn off the other religious societies of the city to its more attractive districts; if she also had abandoned to their fate the poor and necessitous, whom wealth and fashion have bequeathed to her, the lower part of the city would have presented an example of religious destitution unparalleled in the history of Christian civilization.

"It was in view of this great change in the condition of this population of the city that I introduced into the the vestry on the 10th April, 1751, the following resolutions:

Resolved, That the standing committee be instructed to report a plan by which the expenditures of the corporation shall be limited to its income.

"*Resolved*, That the said committee be instructed to inquire into the expediency of making the seats in Trinity church and in St. John's chapels free.

"*Resolved*, That the said committee be instructed to inquire into the expediency of establishing free schools in connexion with Trinity church and its chapels.

"*Resolved*, That the said committee be instructed to inquire into the expediency of devoting the funds of the corporation, as far as may be practicable, after making provision for the support of the new chapel in 25th street, to the education and religious instruction of the poor of the city.

"The last resolutions, as originally presented, was confined to the poor of the city below canal street, and, on the suggestion of a member of the vestry, it was, in view of future contingencies, amended so as to embrace the whole city.

"This is the plan which, nearly four years ago, I deemed it my duty to bring before the vestry. It was supported by a somewhat labored argument, which was not committed to paper, and which I will not tax the patience of the committee by attempting to recall to remembrance. I trust, indeed, that no such exposition is necessary, and that the resolutions sufficiently explain their purpose. Their design was to rescue the lower part of the city—that portion which has not only an immense body of resident poor, but which receives into its bosom the greater part of the destitute, who seek a refuge here from hardships in other countries—to rescue this combined mass of permanent and temporary indigence from the utter spiritual abandonment with which it was threatened by the removal of those to whose wealth and liberality it had been accustomed to look for sympathy and pecuniary aid, to more congenial districts. The plan comprehended not only the spiritual instruction of the adult inhabitants of this deserted district—once the seat of nearly all the wealth of the city—but the education of their children; and, to the extent of the means of the corporation, a ministration to their temporal wants. Trinity church, with its endowments, fortunately growing more valuable with the progress of the city, was to stand in the place of the individual opulence, which has fled from a district where its tastes could no longer find suitable fields for indulgence, and established itself in others, where it has rivaled Genoa in its streets of palaces, and where in all its appointments and manifestations of indoor and outdoor life, there is a concentration of refinement, luxury and splendor unequaled, excepting by a few of the great capitals of Europe.

"It is possible that I may have looked upon this plan with that undue partiality which individuals are apt to feel for suggestions originating with themselves. But it has seemed to me to have been among the designs of Providence that Trinity Church should have been planted in this great district, ready, with her ample endowments, to make provision, when the emergency should arrive, for those whom individual wealth has left upon her hands. I hold this to be the great mission of Trinity church, and I have pressed on the vestry, on all proper occasions, the duty of preparing for it, and of commencing the work with the utmost diligence. Though the plan has not been formally adopted it has been practically acted on; and it is due to my associates in the vestry to say, that they have responded to all appeals in behalf of the destitute districts below Canal street, by as liberal an expenditure as the income of the corporation, crippled by a heavy debt, and burdened by large annual contributions to other churches, has admitted. The clerical force of the parish has been nearly doubled; the Sunday schools have greatly enlarged; parish schools for the gratuitous education of children have been established; by far the greater part of the pews in Trinity church, one hundred and four out of one hundred and forty-four in St. Paul's, and a large number in St. John's, have been made free; efforts have been put forth to bring into the church those, who have not been accustomed to attend any religious worship; Trinity church is opened twice every day throughout the year, for divine service; a mission office has been established to receive applications for aid; lay visitors are employed to seek out want and relieve it; missionary agencies have been constituted in connection with the Commissioners of Emigration; the whole lower part of the city has been virtually made a field of missionary labor; and a degree of energy has been infused into the ministrations of the church, temporal and spiritual, which compensates, in a great degree, for the lost support of the religious societies removed to other districts. In the midst of all this earnest effort, with five of her clergy residing within this neglected field of labor, conversant with little else than its destitution, and devoting themselves to the relief of its wants, Trinity church finds herself assailed, as faithless to her trust, by those, for the most part, whose lives are passed amid the social amenities of the upper districts, and in an atmosphere redolent of indulgence and luxurious ease.

"It was not supposed by me, when this plan was brought forward, that it could be fully carried out, until a considerable portion of the leased

property of the church should become available for the purpose. It was only expected that a beginning should be made, and that the plan, in its great outlines, should have a practical adoption. However earnest the desire to put it in operation at an earlier period, the unexpected augmentation of her debt, not only renders such a desire hopeless, but manifests that it may be even further postponed, or possibly defeated, without a prudent husbandry of her resources.

"For the better illustration of this point, I annex a statement of the revenue and ordinary expenditures of the corporation, for the year ending the 30th April, 1856.

Revenue.

1.	From ground rents of real estate,	$67,259 53
2.	" pew rents,	6,998 50
3.	" interest on bonds and mortgages	13,259 40
4.	" Trinity Church Cemetery,	4,155 93
		$91,773 36

Expenditures.

1.	Parish expenditures, including, (besides those obviously such) charges upon, and expenses of management and care of the property of the church, necessary diocesan expenses, and annuities to families of deceased clergymen, or to officers of the parish,	$71,344 22
2.	Interest on debt,	36,552 15
3.	Allowances, donations, and loans to other churches,	32,052 42
		$139,948 79
	Deduct revenue,	91,773 36
	And there is a deficit of	$48,145 43

for the year ending 30th April, 1856.

"The receipts and expenditures for the year ending 30th, April, 1857, were estimated on 1st May last, at $40,638 66. The grants actually made by the corporation, to clergymen and churches to be paid during the year, in addition to the regular allowances, amount to $11,640, and the appropriations for building school-houses, and renovating and enlarging St. John's chapel to $28,000, making together..... $39,640 00
Deduct cash on hand 1st May, 1856, 10,016 38

	$29,623 62
Add estimated deficiency,	40,638 66
And there will be a deficit of	70,262,28

for the year ending the 30th April, 1857.

"This deficit can only be met by selling real estate. The deficits for the last ten years, exceed two hundred and seventy thousand dollars, and the corporation has provided for them, by selling lots, and applying the proceeds to the augmentation of her insufficient income. While she is assailed as niggardly in her donations, and as engaged in a systematic accumulation of her capital, she has in fact, for years, been selling her real estate, and meeting with the proceeds, the pressing demands on her, a large portion of which have grown out of her contributions for the support of other churches.

"The estimated expenditure of the present year continued till 1862, would consume so much of the Lispenard lease, which becomes disencumbered in that year and embraces a large and valuable part of her real estate, as to leave her a balance insufficient to pay her debt which is now..... $668,813·00
This debt may be reduced by mortgages..... 199,469·00

To the sum of	469,344·00
Add deficits of $70,278·66 for five years,	351,311·40
And there will be the sum of	$820,655 40

to be provided for by sales of real estate; a sum exceeding the highest estimate in the report of the committee of the value of the Lispenard lease; and unless the price of real estate become greatly enhanced during the next five years, nothing will remain of the lease referred to, after discharging the pecuniary obligations above specified, a portion of which must be provided for by sale of other property.

"The expenditures of the parish can not be materially abridged without prejudice to its interests; and the vestry are unwilling to reduce the annual allowances to other churches, believing that such a reduction would cause great inconvenience to the recipients, and, in some cases, impair to a serious extent the efficiency of the parishes thus assisted.

"In regard to the necessity of allowing the capital of her endowment to be consumed by the current expenses of the church, I have differed in opinion with the majority of the vestry. While they have deplored it and yielded to it as a necessity, I have been in favor of meeting it by retrenchment, and bringing down the expenditure, as nearly as may be, to the standard of the income. I have urged this duty on the vestry as one demanded by every maxim of financial prudence, and with the less reluctance as the inconvenience to result from it would be of short duration; for if the real estate disposable in 1862, or the great mass of it, can be kept undiminished until that time, the church will be in a position to prosecute the great plan of ministration she has entered on, with an efficiency which can not fail to produce results of the highest importance to the city and the state. If I have thought the vestry in error in this respect, it is not because I have considered them lacking in liberality, but because they have yielded under impulses highly honorable to their feelings, to an outside pressure for contributions, which, in view of the deep and lasting interests involved in the question, I would have resisted."

Now, Sir, here we see unfolded the purposes and objects which the corporation have in view; and it is for you to say whether you find anything in them to condemn; conceding for the moment, and for the sake of the argument, that

it belongs to you as a legislative body, to pass an official judgment on the conduct of the vestry. But although that right is denied, as Trinity has been arraigned here, she appeals to this record for her complete vindication.

Sir, if this estate be taken from the corporation and vestry, then will be defeated the only adequate scheme ever projected to provide for the spiritual and temporal care of this large and interesting portion of the population of the city.—A few years ago, those who now form the uptown Episcopalian congregations were down town people, and members of the congregation of Trinity Church. But time has changed all this. The wealthy have moved up town into the more fashionable neighborhoods. Here and there a family clings to the old Homestead; but now the lower part of the city is crowded with a population, that without Trinity and the Catholic church, would be without any means of religious worship and destitute of any spiritual care.—Hence it is that Trinity has made her church—that magnificent edifice—and the chapels free—almost literally free.

IN SENATE.....Monday, 4 P. M.

There never would have been any difficulty as to the right to participate in the control of the affairs of this church, if the persons who claim that they are now excluded, had remained in the lower parts of the city, where they and their ancestors resided from the first settlement of New York, till a comparatively recent period. While they remained within the parish,—within the congregation of Trinity, or of her chapels,—they were admitted to all the rights, franchises and privileges which the corporators now enjoy; and if they had remained within her congregation and under her Rector, they would never have forfeited those rights. But when they saw fit, in order better to enjoy the abundant wealth they had acquired, to move up town into more attractive neighborhoods; to form new congregations; then by their own voluntary act they seceded from the corporation of Trinity; they severed the temporal and spiritual relations they held to the Rector, wardens, vestrymen and congregation of their parish church, and surrendered by their own act of expatriation, the rights they previously enjoyed. It was not through the charter; it was not through the act of 1814; it was not by any action of the corporation of Trinity church, the Rector or the vestry, that they were deprived of the right of corporators. They chose themselves to leave the congregation; to sever their connection with it: and thus to deprive themselves of the rights which attach to that relation. What does the act of 1814 say? That all persons belonging to Trinity church shall take part in its government. Then what have these gentlemen to do, in order to acquire the right they seek? Is it necessary for them to go to the courts and commence law suits? Is it necessary for them to come to the legislature year after year, to obtain a law to secure to them those rights? No; the act of 1814 furnishes them abundant means by which to enjoy equal rights with the other corporators of Trinity. They have nothing more nor less to do, than to become members of Trinity congregation—communicants of her church—to occupy a seat within it—and to return to that relation to the Rector, wardens and vestry of the church which alone enables any one to become a corporator, and to vote at her elections. All the difficulty arises from a desire to do an impossible thing, an unheard-of thing in church government: to leave the church, to sever the ecclesiastical relation with its Rector and congregation; to cease to be pew holders; to form another congregation and establish another church, and yet to hold a share in the control and government of the church from which they have seceded. To choose a Rector for a church to which they have ceased to belong; and to disburse the revenue of a church they have abandoned.

I therefore say that it is not the law of 1814 or any other law, still less any act of the vestry, which has deprived these claimants of the rights of corporators of Trinity: but that they have ceased to possess those rights by their own voluntary act. Nor does the act of 1814 *debar* them from the *future* enjoyment of these privileges; for nothing is requisite to enable them to resume and enjoy them, but their own voluntary act. They have only to order their coachmen to roll on down Broadway; they have only to drive down to Trinity with their equipages, and kneel at her altar beside the poor and worthy worshippers, my constituents, who now frequent her aisles, and all these coveted rights and privileges of which they claim to have been deprived, will be restored to them.

I find in the speech of the Senator from the 22d (Mr. Noxon), such passages as these: "Tell me not of consecrated justice from those who are steeped in iniquity!—Trinity church never had any right in the property she unjustly holds—The church usurps it, and yet the Senator talks about consecrated justice. Consecrated justice! Why, I wonder that the embellishments that surround her churches do not cry out against her. Consecrated justice in usurpation! Consecrated justice, in iniquity! Consecrated justice in robbing men of their rights!"

Well, Sir, I have read carefully the two reports which have been made by the Senate Committee, and the testimony taken by them; and if these prove "iniquity" on the part of the corporation, then I confess I have failed in some way to comprehend the bearing and effect of the testimony; for I undertake to say, with Mr. Jay, who was never friendly to this corporation, that the history of no state can show a more faithful and stainless performance of an important trust, than is shown by the record of the transactions of this vestry.

In the first place it was attempted to be proved that they had used the power of the church to favor a particular class of doctrinal opinions; that they had used their gifts to make converts to High church notions, discriminating against those who entertained Low church views. Sir,

look at the testimony; see how completely this charge was refuted; so triumphantly, that all who had made it cried "enough!" The charge was abandoned in the committee room and never should have been revived here. It was shown that so far from there being any ground for such a charge, the reverse was the fact. Trinity has made no discrimination in her gifts, except to discriminate between those who needed them most and those who needed them least. She has endowed Columbia college with a liberality beyond any gifts ever made by any city, state or church to a similar institution in this country. She has established a free college in the interior of this state. She has aided more than two hundred and fifty churches in the state, High church and Low church. She has given liberally—munificently—to those very churches whose representatives are now here assailing her. And is this a church to be characterized on the floor of the Senate of the state of New York, as a thing "steeped in iniquity?" I will not suffer such a slander to be uttered here against a sacred and good institution, without rebuke.

The next charge is that Trinity *usurps* this property. Is there not a simple remedy to apply to those who wrongfully hold that which does not belong to them? Have not the courts been open to the claimants for forty years; and has any one of them been found willing to present the question to a legal tribunal? And yet in the face of this uninterrupted acquiescence—this silent but imposing proof—that there is no justice in the claim, its advocates rise here, and charge the church with "usurpation!"

We are next told that the country churches have been "SUBSIDIZED" by Trinity. The Senator from the 22d (Mr. Noxon) says, "I see that the Honorable Senator from the 27th in presenting one of the Memorials of *these subsidized country churches*, thought fit to say with emphasis that it was from a *low* church;" and he adds "*these* churches do not come here on behalf of Trinity, unless some *secret spring moves* and controls their action."

Sir, the Senator and his friends are amazed, overwhelmed by the expression coming in from every county in the State, protesting against this law, and denouncing the attempted aggression.—That expression can not be ignored. It must be met in some way or other, and here is a convenient mode! Every church aided by Trinity has been "subsidized;" it has been bribed to send memorials here, asking that the vested rights of the corporation may be maintained! These churches do not come here, says the Senator, unless some secret spring moves them. Sir, I can tell the Senator what that secret spring is. It is the love of Truth and Justice. They come here to save Trinity because they love Trinity; and I hope that Senators who have imputed to these congregations in their own midst, these corrupt and infamous motives, will one day be able to comprehend how much easier it is to induce our village churches to send remonstrances here from their convictions of what is just and right, than from the sordid and unworthy considerations attributed to them by the enemies of Trinity church.

We find, Sir, among the offences laid at Trinity's door, the charge that she controls the conventions of the diocese, and so puts in power those only who are favorable to her views. There is no fact to justify that accusation; not one has been referred to in the reports; not one can be produced in evidence. In all the conventions called to elect a Bishop, for years past, the candidate supposed to be the favorite of Trinity has never received the votes of one fourth of the churches receiving aid from her; the candidate supported by Trinity has been in a minority.—These facts show that no such result as is claimed, has followed the distribution of her bounty.

Sir, the theatre has been resorted to, to furnish a standard of comparison with this church. We have been told of wires leading from the "Green Room" of her vestry, connecting with the churches in the interior, which she has only to pull, to awaken a response. The honorable Senator (Mr. Noxon), has said, "She has poured in memorials upon us, as if wires, attached to every clergyman in the state, lead into the *green room* of her vestry, and she has only to pull them in order to work her will."

It is by such assaults, by such depreciation of what has been hitherto thought respectable and venerable, that the opponents of Trinity seek to sustain a languishing cause. And not only bad, but forlorn indeed must be the cause that is driven to sustain itself by such means.

Sir, when this subject was presented to the legislature of 1847, it was presented on its real merits, as a question of law, arising out of the construction of the charter, and subsequent grants and statutes. The minds of those who were to be the judges, were kept free from misrepresentation and prejudice, so that the issues were met in a spirit of candor and truthfulness. The result was the signal defeat of the movement; for the application to the Legislature of 1847, did not receive a solitary vote in the House of Assembly, of which I was then a member. The report of the judiciary committee was unanimous against it, and it was approved with equal unanimity in the aggregate body. But those who assail Trinity saw that in any future attempt they must get new strength somewhere, and some how. The charter remains the same now as it was in 1847. Queen Anne's grant is the same—the law of 1814 is the same. Every lawyer on the side of the assailants—and there are many eminent legal gentlemen among them—had long been striving to place that act in such a light before the legislature, as would seem to warrant or justify an attack upon it, and had failed. Something else, then, must be resorted to, or the attempt would be hopeless, and might as well be abandoned.

After ten years' deliberation they decide that before they can induce the legislature to impair the rights of the church, they must blacken and

traduce her, and all connected with her. They must arouse the heat and tumult of a battle. They must poison by slander, all the sources from which correct information is to be obtained. They must divert and distract the attention of the legislature from the real points of the case, and fix it on what rumor and detraction have called the errors and offences of the church. They must summon to the capitol all the disappointed applicants for the bounty of the church. They must charge the vestry, who have heretofore lived an unsullied life, with a corrupt use of their power, because some man had a law suit with the church and failed, and his lease was given to another. They must bring up the rumor here, predicated on some such incident as that, that the vestry have been in the habit of granting leases corruptly to relatives and friends. This is the new process by which, through clamor, prejudice and slander, they hope to induce this legislature to enter seriously on a project of spoilation, from which, looking at the real merits of the issue, our predecessors recoiled.

But, sir, the enemy is not content with assailing the vestry and the church. The name and the fame of the bishop have been dragged into this unhappy controversy. It has been insinuated that he is induced to advocate the cause of Trinity by the consideration that a portion of his salary is paid by that corporation. In considering this case, and in looking at the motives of those who have written letters and remonstrances on the subject, the gentlemen on the other side seem to think that there can be no other influence at work save that of the "almighty dollar." They believe that the bishop, who has led a life of serene purity and piety; whose name is synonymous all over the state with whatever is exalted in conduct and blameless in motive; can not write a pastoral letter—a letter of advice to his people—unless some "secret springs," some sordid motives govern and control him!

Bishop Potter was not the first choice of Trinity church; he was not her candidate for Bishop; and I happen to know that it is no new thing for Bishop Potter to stand where he now stands in regard to this Trinity church controversy. When he was rector of St. Peter's, here at the capitol, in 1847, no man was more earnest and zealous, whithin his appropriate sphere, to enlighten the minds of legislators as to the true merit of the question. Trinity church did not then pay any portion of his salary as rector of St. Peter's in Albany, and yet he was among the foremost of those clergymen of the interior, who then as now remonstrated against this act of aggression. Sir, I remember him well in those days; for it was at a time of life when events leave traces on the mind, not easily effaced. It was my good fortune to be the occupant of a chamber near his own, in a dwelling not far from this capitol, while the rectory was being re-built. I was then here, young, without friends among the great, and powerful, and influential; and I can never forget the kindness, the words of cheering counsel, the friendship of that pure and good man; and I can not, Sir, hear his conduct questioned, or hear dishonorable motives imputed to him, without indignation, without suffering a sense of personal wrong which I can not repress or conceal. Yes, Sir, he was my friend in those days when first I sought

> ——To rise
> Out of the prison of my mean estate,
> And with such jewels as the exploring mind
> Brings from the caves of knowledge, buy my ransom
> From those twin jailors of the daring heart,
> Low Birth, and Iron Fortune!

He is the same man now, as then; pure in purpose, virtuous in life, noble in thought, devoted, as few men even in his holy calling have been devoted, to the good of mankind. And, Sir, wicked and desperate indeed must be that enterprise, and dark and dismal its prospects, that can find no other means by which to sustain itself, than an assault on the character of such a man as Bishop Potter.

I desire, now, Mr. Chairman, to call the attention of the Senate to some of the legal aspects of this case.

It is conceded that Trinity church is a private corporation; a private eleemosynary corporation, created by a charter from the British crown, and confirmed after the revolution by the authority of the state; that she holds her large estate under that charter and subsequent royal grants; and the general question is, what power, if any, this Legislature possesses over private property, or over the mode and manner in which it is used and controlled. I make this statement of the exact character of the issue, in order to show the Senate that the same issue precisely in legal effect, was presented to the Supreme Court of the United States in the Dartmouth college case. In that case the highest judicial authority in the Union, held that no state Legislature had any such power, and that any statute which interfered with such property, or with its control and management, was null and void. I am quite aware that the lawyers around this circle are familiar with this case; and that in citing it and reading from the arguments and opinions, I am wearying their patience by a repetition of what they have often read; yet I will draw the attention of the Senate somewhat fully to the case, in order that those Senators who are not lawyers may see what the Supreme Court of the United States would say of such a law as we are now importuned to pass.

Dartmouth college was established in New Hampshire by a grant of the British crown in the year 1769, for the purpose of spreading Christian knowledge, and providing the means of education in the then province. The legislature of New Hampshire, fancying that they could govern the college, or appoint people to govern it, better than those whom the charter designed, passed a law changing the name of the corporation from the "Trustees of Dartmouth College," to the "Trustees of Dartmouth University," and transferring the control of the property of the old corporation to the new organization. The legislature of New Hampshire found

within the limits of the state a private eleemosynary corporation, created for the purposes of education, existing under a charter, and holding property by grants from the British crown; just as we find here a private religious corporation possessing estates derived by grant from the English crown; and which corporation was, as is the one now in question, under the control of persons deriving their authority from the original charter. The two cases are precisely identical, with the single immaterial difference that the one is a religious and the other an educational institution; although Dartmouth College, I ought to say to be strictly accurate, was founded to promote religion as well as education.

The persons appointed by the legislature of New Hampshire under the statute, got possession of the books of the college, and the original corporators sought to regain the custody of the book of records, the corporate seal and other corporate property. Chief Justice Marshall delivered the opinion of the court; and although we have seen a recent instance at least in which that high court has been overruled without much ceremony by this body (I allude to our censure of the judges who rendered the decision of the court in the *Dred Scott* case, and whose opinion we have not yet read;) yet I hope that the antiquity of this decision, and its exemption from all those questions which excite partisan feeling in these days, will secure for it a greater degree of respect.

In order that the Senate may fully understand the nature of the case, and the points decided by the court, I will read a few extracts from the memorable argument of Daniel Webster, who appeared for the college, and the opinion of the court delivered by Chief Justice Marshall, which affirmed Mr. Webster's positions:

"It is not too much to assert, that the legislature of New Hampshire would not have been competent to pass the acts in question, and to make them binding on the plaintiffs without their assent, even if there had been, in the constitution of New Hampshire, or of the United States, no special restriction on their power; because these acts are not the exercise of a power properly legislative.—*Calder et ux* v. *Bull*, 3 *Dall.* 386. Their object and effect is to take away from one, rights, property and franchises, and to grant them to another. This is not the exercise of a legislative power. To justify the taking away of vested rights, there must be a forfeiture; to adjudge upon and declare which, is the proper province of the judiciary. Attainder and confiscation are acts of sovereign power, not acts of legislation. The British parliament, among other unlimited powers, claims that of altering and vacating charters; not as an act of ordinary legislation, but of uncontrolled authority. It is theoretically omnipotent. Yet in modern times, it has attempted the exercise of this power very rarely. In a celebrated instance, those who asserted this power in parliament, vindicated its exercise only in a case, in which it could be shown, 1st. That the charter in question was a charter of political power; 2d. That there was a great and overruling state necessity, justifying the violation of the charter; 3d. That the charter had been abused and justly forfeited.—*Annual Reg.* 1784, *p.* 160. *Parlia. Reg.* 1783. *Mr. Burke's Speech on Mr. Fox's E. I. Bill. Burke's Works, Vol. III. p.* 414, 417, 467, 468, 486. The bill affecting this charter did not pass. Its history is well known. The act which afterwards did pass, passed *with the assent of the corporation.* Even in the worst times, this power of parliament to repeal and rescind charters has not often been exercised. The illegal proceedings in the reign of Charles II, were under color of law. Judgments of forfeiture were obtained in the Courts. Such was the case of the *quo warranto* against the city of London, and the proceedings by which the charter of Massachusetts was vacated. The legislature of New Hampshire has no more power over the rights of the plaintiffs than existed, some where, in some department of government, before the revolution. The British parliament could not have annulled or revoked this grant as an act of ordinary legislation. If it had done it at all, it could only have been in virtue of that sovereign power called omnipotent, which does not belong to any legislation in the United States."

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"I hope enough has been said to show, that the trustees possessed vested liberties, privileges, and immunities, under this charter; and that such liberties, privileges, and immunities, being once lawfully obtained and vested, are as inviolable as any vested rights of property whatever. Rights to do certain acts, such, for instance, as the visitation and superintendence of a college, and the appointment of its officers, may surely be *vested rights*, to all legal intents, as completely as the right to possess property. A late learned Judge of this Court has said, 'when I say, that a *right* is vested in a citizen, I mean, that he has the power to do *certain actions*, or to possess *certain things*, according to the law of land.'—3 *Dal.* 394."

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"The American people have said, in the constitution of the United States, that "no state shall pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts." In the same instrument they have also said, "that the judicial power shall extend to all cases in law and equity arising under the constitution." On the judges of this court, then, is imposed the high and solemn duty of protecting, from even legislative violation, those contracts which the constitution of our country has placed beyond legislative control; and, however irksome the task may be, this is a duty from which we dare not shrink."—*Marshall, C. J.*

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"It can require no argument to prove, that the circumstances of this constitute a contract. An application is made to the crown for a charter to incorporate a religious and literary institution. In the application, it is stated that large contri-

butions have been made for the object, which will be conferred on the corporation, as soon as it shall be created. The charter is granted, and on its faith the property is conveyed. Surely in this transactions every ingredient of a complete and legitimate contract is to be found."—*Marshall, C. J.*

"This is plainly a contract to which the donors, the trustees, and the crown (to whose rights and obligations New Hampshire succeeds), were the original parties. It is a contract made on a valuable consideration. It is a contract for the security and disposition of property. It is a contract on the faith of which, real and personal estate has been conveyed to the corporation. It is then a contract within the letter of the constitution, and within its spirit also, unless the fact, that the property is invested by the donors in trustees for the promotion of religion and education, for the benefit of persons who are perpetually changing, though the objects remain the same, shall create a particular exception taking this case out of the prohibition contained in the constitution."—*Marshall, C. J.*

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"Almost all eleemosynary corporations, those which are created for the promotion of religion, of charity, or of education, are of the same character. THE LAW OF THIS CASE IS THE LAW OF ALL. In every literary or charitable institution, unless the objects of the bounty be themselves incorporated, the whole legal interest is in trustees, and can be asserted only by them."—*Marshall.*

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"The opinion of the court, after mature deliberation is, that this is a contract, the obligation of which can not be impaired, without violating the constitution of the United States. This opinion appears to us to be equally supported by reason, and by the former decisions of this court."—*Marshall, C. J.*

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"It has been shown, that the charter is a contract on the part of the government, that the property with which the charity is endowed, shall be forever vested in a certain number of persons, and their successors, to subserve the particular purposes designated by the founder, and to be managed in a particular way. If a law increases or diminishes the number of the trustees, they are not the persons which the grantor agreed should be the managers of the fund. *If it appropriate the fund intended for the support of a particular charity to that of some other charity, or to an entirely different charity, the grant is in effect set aside, and a new contract substituted in its place;* thus changing the objects of his bounty. And can it be seriously contended, that a law, which changes so materially the terms of a contract, does not impair it? In short, does not every alteration of a contract, however unimportant, even though it be manifestly for the interest of the party objecting to it, impair its obligation? If the assent of all the parties to be bound by a contract be of its essence, how is it possible that a new contract, substituted for, or engrafted on another, *without such assent*, should not violate the old charter?"—*Mr. Justice Washington.*

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"Upon the whole, I am of opinion, that the above acts of New Hampshire, not having received the assent of the corporate body of Dartmouth College, are not binding on them, and consequently, that the judgment of the State Court ought to be reversed."—*Mr. Justice Washington.*

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"When a private eleemosynary corporation is thus created by the charter of the crown, it is subject to no other control on the part of the crown than what is expressly or implicitly reserved for this purpose, the crown can not, in virtue of its prerogative, *without the consent of the corporation*, alter or amend the charter, or divest the corporation of any of its franchises, or add to them, or add to, or diminish, the number of its trustees, or remove any of the members, or change, or control the administration of the charity, or compel the corporation to receive a new charter. This is the uniform language of the authorities, and forms one of the most stubborn, and well-settled doctrines of the common law.—*Story.* See *Rex.* v. *Passmore.* 3 T. R. 199, and the cases there cited."

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"In my judgment it is perfectly clear, that any act of a legislature which takes away any powers or franchises vested by its charter in a private corporation or its corporate officers, or which restrains or controls the legitimate exercise of them, or transfers them to other persons *without its assent*, is a violation of the obligations of that charter. If the legislature mean to claim such an authority, it must be reserved in the grant. The charter of Dartmouth College contains no such reservation; and I am therefore, bound to declare, that the acts of the legislature of New Hampshire, now in question, do impair the obligations of that charter, and are, consequently, unconstitutional and void."—*Story.*

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Now the idea has been not a little pressed upon those around this circle who are not lawyers, that this church is within the control of the Legislature, because it is a *corporation;* and we have been asked, "do you not constantly repeal or alter the charters of incorporated companies—of banks and railroads, insurances, and manufacturing corporations; and why should you not possess the same right to deal with this corporation as with any other?" The answer is twofold. In the first place you acquire the right to alter, repeal or modify the act of incorporation of a bank, a railroad, or an insurance company, because you *reserve* that right in the act forming the corporation. One of the sections in every act you have passed for the last twenty-five years, creating a corporation, contains an express provision which keeps that power within your hands. And now let me tell you why such a

section is put into these acts. *It is on the authority of this very decision which I hold in my hand.* It is because the supreme court of the United States held, in the Dartmouth College case, that without this reservation in the act of incorporation, the Legislature of the state has no power to alter, amend or repeal the charter, without the consent of the corporation, and that the only power over such charters, rests in the courts.

In the charter of Trinity church, this right is not reserved; and if this country had continued under the rule of the British crown, no power on earth would have been able to alter or repeal that charter, except the British Parliament; and only the Parliament because according to the theory of the British constitution, the power of the Parliament is absolute. It is far otherwise with Legislatures in this country. Ours is a limited, not an absolute power. Both make laws; the one in the exercise of absolute legislative power, the other under limited powers derived from a written constitution. Here, the absolute power rests not with the Legislature, but with the people; and is exercised only by them when they perform the sovereign act of framing a constitution. When they do that, they delegate certain powers and duties to the Legislative, Judicial, and Executive branches of the government. This Legislature does not possess —because it is in no way delegated to us—any power over the private property of individuals or corporations in this state; except in one solitary instance, when, by what is called the right of "eminent domain," we take private property when the public good demands it, for public use, upon making to its owner full and adequate compensation. And this is a power expressly granted by the constitution.

Now, we have seen that this corporation of Trinity church is a private corporation, possessing private property, dedicated to certain uses. No authority can be found in the constitution of the state or in the adjudications of the courts, for any such assumption of power by the legislature as we are now called upon to sanction.

Hear what Chief Justice Marshall says on this point:

"Whence, then, can be derived the idea, that Dartmouth College has become a public institution, and its trustees public officers, exercising powers conferred by the public for public objects? Not from the source whence its funds were drawn; for its foundation is purely private and eleemosynary—not from the application of those funds; for money may be given for education, and the persons receiving it do not, by being employed in the education of youth, become members of the civil government. Is it from the act of incorporation? Let this subject be considered.

A corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of its creation confers upon it, either expressly, or as incidental to its very existence. These are such as are supposed best calculated to effect the object for which it was created. Among the most important are immortality, and, if the expression may be allowed, individuality; properties, by which a perpetual succession of many persons are considered as the same, and may act as a single individual. They enable a corporation to manage its own affairs, and to hold property without the perplexing intricacies, the hazardous and endless necessity, of perpetual conveyances for the purpose of transmitting it from hand to hand. It is chiefly for the purpose of clothing bodies of men, in succession, with these qualities and capacities, that corporations were invented, and are in use. By these means, a perpetual succession of individuals are capable of acting for the promotion of the particular object, like one immortal being. But this being does not share in the civil government of the country, unless that be the purpose for which it was created. Its immortality no more confers on it political power, or a political character, than immortality would confer such power or character on a natural person. It is no more a state instrument, that a natural person exercising the same powers would be. If, then, a natural person, employed by individuals in the education of youth, or for the government of a seminary in which youth is educated, would not become a public officer, or be considered as a member of the civil government, how is it, that this artificial being, created by law, for the purpose of being employed by the same individuals for the same purposes, should become a part of the civil government of the country? Is it because its existence, its capacities, its powers, are given by law? Because the government has given it the power to take and to hold property in a particular form, and for particular purposes, has the government a consequent right substantially to change that form, or to vary the purposes to which the property is to be applied? This principle has never been asserted or recognized, and is supported by no authority."

So in that way, the Supreme Court disposes of the idea that we acquire a right to interfere in the control and government of a corporation simply because it *is* a corporation. It makes no difference in law if the possession of property is in an individual or corporation. Each has equal immunities with the other. You may proceed against a corporation in the courts. If it denies rights to private individuals, you can compel it by a *mandamus* to do them justice. If its officers misappropriate funds or abuse their trust you can obtain an injunction against them and restrain them from acting. If they have gone beyond their charter, and usurped powers that do not belong to them, you can proceed by information in the nature of a *quo warranto*, and if sufficient cause be shown, the courts will dissolve the corporation. And these are the only legal modes by which you can bring a private corporation within the authority of the government, and subject it to the operation of the law of the land. And this is no injustice. It covers

every conceivable case of wrong, while it saves from disturbance and violation those objects created for all time, and intended only to be subjected to the salutary restraints of the courts of justice. This judicial control is entirely adequate to meet all the grievances complained of here, not excluding those said to result from the act of 1814, because if that statute was passed in derogation of vested rights, it would be declared null and void by the courts.

This same question was presented in a memorable instance in English history. Indeed, these contests with private eleemosynary corporations, whether colleges or churches, seem ever to have been favorite occupations with ambitious Legislators and reckless monarchs. All will remember the controversy which King James had with Magdelen college. It was one of a series of oppressive acts which subjected him to the indignation of the English people. The King undertook to furnish Magdelen college, Oxford, with a President—one Parker. The Fellows of the college, who by the charter of the crown had been invested with the control of its affairs, declined to induct Parker in the Presidency. The King was obstinate. The Fellows still refused. Then his Majesty sent down a commission, empowered by the royal authority and backed by the troops to install Parker. Of course the Fellows were forced to yield to this demonstration of physical power; but an appeal was afterwards made to the courts. "My Lords," said Dr. Hough, the president elected by the college, to the King's commissioners, "you have this day deprived me of my freehold; I hereby protest against all your proceedings as illegal, unjust and null; and I appeal from you to our sovereign lord the King in his courts of justice." And although it was a period when the crown had exercised remarkable power over the decisions of the court of King's Bench, there was not found one solitary judge to justify the attempt of the English King to interfere with, and control the government of a private corporation, which by its charter was confided to its own board of trustees; and no court lawyer could be found so unfaithful to the teachings of his profession, so disloyal to that veneration for vested rights which his profession, above all others, teaches, as to maintain that the King had not transcended his power and his prerogative, in this attempt to violate the vested chartered rights of a private corporation. The courts restored to the office of President, Dr. Hough, the man whom the King had turned out. This act, Sir, has always been characterized in history, and is condemned by Burnet and Hume and Macauly, as one of the worst acts of tyranny which marked that revolutionary period.

"'The nation, as well as the university,' says Bishop Burnet, (*Hist. of his own times, vol. 3, p.* 139.) 'looked on all these proceedings with just indignation. It was thought *an open piece of robbery and burglary, when men, authorized by no legal commission, came and forcibly turned men out of their possession and freehold.*' Mr. Hume, although a man of different temper, and of other sentiments, in some respects, than Dr. Burnet, speaks of this arbitrary attempt of prerogative, in terms not less decisive. 'The president, and all the fellows,' says he, '*except two, who complied* were expelled the college; and Parker was put in possession of the office. This act of violence, of all those which were committed during the reign of James, is perhaps the most illegal and arbitrary. When the dispensing power was the most strenuously insisted on by court lawyers, it had still been allowed, that the statutes which regard *private property* could not legally be infringed by that prerogative.

And Senators, this is one of the stains on British history which you are called upon to imitate. You are urged to do much the same thing, though not precisely similar in the form which James followed.

You do not name the vestry in the bill—as you have lately been so much in the habit of doing with respect to commissioners in the city of New York; you do not authorize the Governor and Senate to appoint a vestry for Trinity church—a mode of appointment, which has become the fashionable substitute now-a-days for legislative appointment; but you *do* devise a scheme by which you deprive those who worship in the church, of the right to choose their own rector and vestry, and give it to outside congregations. You do not appoint the rector and vestry of Trinity directly; but you *do* appoint them indirectly by directing how they shall be chosen.—You do not assail the corporation, as King James did, with the audacity of a tyrant, but with the meanness of a sneak! Name them in the bill, Sir! Do it like men, and stand up to what you do. Take hold of this charter—resolve that it is putty, and that you can mould and shape it as you will. Assume the power and the responsibility together. But do not, in this cowardly way attempt to break down the bulwarks, which through long centuries, and through many scenes of turmoil and danger have preserved this corporation sacred from violation.

There are numerous cases bearing upon this subject, all of which maintain the same doctrine as that established in the Dartmouth college case, that these are private rights, sacred from any interference, and that charters granted by the legislature are in the nature of contracts, and can not be changed without consent of the corporation unless the right is specially reserved.

In the case of the University *versus* Foy—2nd Heywood—the Supreme Court of North Carolina pronounced unconstitutional and void a law repealing a grant to the University of North Carolina, an institution created and endowed by the State. In Terrett *versus* Taylor—9 Cranch, p. 43—the Supreme Court of the U. S. decided that a grant or confirmation of lands for the purpose of moral or religious instruction could not be rescinded. Then there is the case of the Society for the propagation of the Gospel in foreign

parts, *versus* the town of New Haven and William Wheeler. The whole subject was fully considered in that case, and the power of the legislature over this class of private corporations was denied on constitutional grounds. That Society was created by royal charter from William III, and the grant of one sixty-eighth share of the town of New Haven was made to it for the advancement of religion and education. In 1794 the legislature of Connecticut passed an act declaring that the rights to the land thus granted to the society should revert to the respective towns in which such lands lay, in trust for the same objects. Under this act, the selectmen of the town of New Haven executed a lease to William Wheeler who entered into possession of a portion of this estate. The action was brought by the Society to eject him. Judgment was given to the plaintiffs and the court said: "the proper courts in this country will interfere to prevent an abuse of the trusts confided to British corporations holding lands here to charitable uses, and will aid in enforcing the due execution of the trusts; *but neither those courts nor the local legislatures where the lands lie can adjudge a forfeiture of the franchises of the foreign corporation, or of its property*"

There are one or two passages from the case *Terret versus Taylor*, which I should like to read, more especially as that case involves the rights of a church possessing a charter very much like that of Trinity. Mr. Justice Story delivered the opinion of the Court. He says:

"Be however, the general authority of the legislature as to the subject of religion, as it may, it will require other arguments to establish the position that, at the revolution, all the public property acquired by the Episcopal churches, under the sanction of the laws, became the property of the state. Had the property thus acquired been originally granted by the state or the king, there might have been some color (and it would have been but a color) for such an extraordinary pretension. But the property was, in fact and in law, generally purchased by the parishioners, or acquired by the benefactions of pious donors. The title thereto was indefeasibly vested in the churches, or rather in their legal agents. It was not in the power of the crown to seize or assume it; nor of the parliament itself to destroy the grants, unless by the exercise of a power the most arbitrary, oppressive and unjust, and endured only because it could not be resisted."

These statutes were passed with the consent of the corporation and were accepted by it, and an attempt was afterwards made by the state of Virginia, to encroach on the vested rights thus conferred. This attempt was made under circumstances very similar to those which called for the law of 1814 by the legislators of this state. Virginia found within her borders a church acting as an "established church," and inconsistent with the new state of things, consequent upon the revolution. They did not conform the charter to our new form of government, but they thought they could go further, and divest the church of its corporate rights. Out of this the controversy arose, and the court goes on to say:

"If the legislature possessed the authority to make such a grant and confirmation, it is very clear to our minds that it vested an indefeasible and irrevocable title. We have no knowledge of any authority or principle which could support the doctrine that a legislative grant is revocable in its own nature, and held only *durant bene placito*. Such a doctrine would uproot the very foundations of almost all the land titles in Virginia, and is utterly inconsistent with a great and fundamental principle of a republican government, the right of the citizens to the free enjoyment of their property legally acquired."

Now, that is what the state of New York did in the case of Trinity church, in the act of 1784; with the consent of the corporation, we so modified the charter as to bring the church into relation with the Protestant Episcopal church of the state of New York, and separate it from the established church of England; and we changed the mode of the election and induction of the rector, by depriving the authorities of the English church of their power in the premises and vesting it in the corporation. Such a statute, with the assent of the corporation, we had authority to pass; so we had like authority, with the assent of the corporation, to pass the law of 1814, changing the name of the corporation, and declaring the qualifications of corporators. But see what the supreme court says as to the power of the legislature in such cases when its interposition is not asked for by a private corporation; and against its consent.

"How far the statute of 1786, *ch.* 12, repealing the statute of 1784, *ch.* 88, incorporating the Episcopal churches, and the subsequent statutes in furtherance thereof of 1788, ch. 47, and ch. 53, were consistent with the principles of civil right or the constitution of Virginia, is a subject of much delicacy, and perhaps not without difficulty. It is observable, however, that they reserve to the churches all their corporate property, and authorize the appointment of trustees to manage the same. A *private* corporation created by the legislature may loose its franchises by a *misuser* or a *nonuser* of them; and they may be resumed by the government under a judicial judgment upon a *quo warranto* to ascertain and enforce the forfeiture. This is the common law of the land, and is a tacit condition annexed to the creation of every such corporation. Upon a change of government, too, it may be admitted that such exclusive privileges attached to a private corporation as are inconsistent with the new government may be abolished. In respect, also, to public corporations which exist only for public purposes, such as counties, towns, cities, &c., the legislature may, under proper limitations, have a right to change, modify, enlarge or restrain them, securing however, the property for the uses of those for whom and at whose expense it was originally purchased. But that the legislature can repeal statutes creating private corpo-

rations, or confirming to them property already acquired under the faith of previous laws, and by such repeal can vest the property of such corporations exclusively in the state, or dispose of the same to such purposes as they may please, without the consent or default of the corporators, we are not prepared to admit, and we think ourselves standing upon the principles of natural justice, upon the fundamental laws of every free government, upon the spirit and the letter of the constitution of the United States, and upon the decisions of most respectable judicial tribunals, in resisting such a doctrine. The statutes of 1798 ch. 9, and of 1801, ch. 5, are not, therefore in our judgment, operative so far as to divest the Episcopal church of the property acquired, previous to the revolution, by purchase or by donation."

Thus you see, Sir, the Supreme Court predicates the whole question as to what may be done with this description of corporation, upon the *consent* of the corporators; upon the *acquiescence* of the corporation; and if you pass a statute without obtaining that consent, you do nothing more nor less than invite the church to a law suit.

There has been a great deal said here about the *name* of the Corporation, and inferences have been drawn, favorable to the claimants from the fact that the name of the Corporation was originally the "Rector and *Inhabitants* of our said City of New York, in communion of our Protestant Church of England as now established by our laws." Now it has already been said that no importance can be attached to this title, because it is the mere designation of the corporation, and is not intended as a description of those designed to be embraced within it, as Corporators. It is very obvious that those who, in the early history of the State dealt with this question, never supposed that this name could be made to import what is now claimed for it; for if we look at the act of 1784 we shall see that its framers understood this corporation to be essentially the corporation of Trinity church; that that church, with its rector, wardens, vestrymen and congregation, and no other church, was embraced within the provisions of the charter and the act of 1784. What is the title of the act?

It is "an act, for making such alterations in the charter *of the corporation of* TRINITY Church, as to render it more conformable to the constitution of the State." Here the framers of the act of 1784 expressed what they considered to be the real character of the corporation, without reference to its technical name. When they undertake to describe it they speak of it as *the corporation of Trinity church;* and not as the corporation of the Inhabitants of New York in communion with the Protestant Episcopal Church. And yet this very question of the qualifications of corporators seems to have been suggested in 1784, for the act goes on to declare who shall be corporators and entitled as such to the right to vote, namely, "all persons professing themselves members of the Episcopal church, who shall either hold, occupy, or enjoy a pew or seat *in the said church*, and shall regularly pay to the support *of the said church*, and such others as shall *in the said church* partake of the holy sacrament *of* the Lord's Supper, at least once in every year, being inhabitants of the city and county of New York." These are the persons, and these only, who were designated by the act of 1784, as possessing the right to vote at the elections of Trinity Church.

If we look at the act of 1788, we will find another ancient exposition of what in early times was deemed to be the scope and objects of this charter. It is entitled "an act to enable *the corporation of Trinity church* in the city of New York to assume the name therein mentioned." The fallacy of the argument on the other side results from looking at the mere name, given in the charter instead of the substance of the thing meant. Senators shut their eyes to all the passages of the charter which show so clearly that it embraced only this particular church, and its Rector, vestry and congregation.

But you say the charter embraces all the Protestant Episcopal inhabitants of the city then and forever after—all the congregations of all the Episcopal churches, because the *name* of the corporation is comprehensive. Well, if it is so, these people must be all under one rector which is not pretended; because certainly the charter contemplates only one rector. Then what is to become of those who have severed their relations with the rector of Trinity church, and why have they severed those relations?

You see, Sir, that in 1784 and 1788, the legislatures of those years entertained the very same views which I have maintained upon this point. They regarded this corporation as the corporation of Trinity church; and confined to that church and its chapels; confined to its rector, and wardens, and vestrymen; and embracing only its congregation.

Now, Sir, a great deal of fuss has been made—for I do not think it deserves a more respectful term;—a deal of gratuitous criticism has been directed against the vestry of Trinity church, because they got the name of the corporation changed in the first section of the act of 1814, which provides as follows:

"Be it enacted by the People of the State of New York represented in the Senate and Assembly, That from and after the passing of this act, the sale corporation of Trinity church, instead of their present name, shall take and use the name of 'The Rector, Church-Wardens and Vestrymen of Trinity church, in the city of New York.'"

The suggestion is often made, in and out of the legislature, that by means of this new name, Trinity was enabled to assume a new character. There could not well be found a weaker argument.

I have shown by the acts of 1784 and 1788 that the corporation was in common parlance called "the corporation of *Trinity church*;" and as Judge Parker says in his very clear and cogent

argument before the committee, if it is to be assumed that the charter embraces all the inhabitants of the city of New York of the Protestant Episcopal faith, simply on account of its name, then by the same reasoning, the "Mechanics' Bank in the city of New York" may be presumed to belong to all the mechanics, and the "Shoe and Leather Bank" to all the shoe and leather dealers in the city.

When the legislature of 1814 undertook to give the corporation of Trinity church a name, it adopted that name which in the common understanding of people, properly designated the thing meant; and the name thus given, I have proved to be precisely the one which on all ordinary occasions had always been used to describe the charter and corporation.

I might perhaps illustrate the last branch of the argument yet more plainly, by going back to the grant of Queen Anne, and seeing what she calls this corporation, and *to whom, to what church—she granted and confirmed "the Queens's farm," now the great bulk of the estate.* I read from the Queen's letter of recognition and instructions of April 14, 1714:

"Whereas, our trusty and well beloved, *the Rector, Church Wardens, and Vestrymen of Trinity Church in our city of New York*, have by their humble address, represented unto us, that our right trusty and our right well beloved cousin and councillor Edward, Earl of Clarendon, our late governor of our province of New York, did grant *a lease of our farm to them for* seven years, under the rent of sixty bushels of wheat yearly payable unto us, (the like having been before granted to Colonel Benjamin Fletcher, Governor under our late royal brother, King William, with the like reservation,) but as these rents were esteemed a perquisite of the several governors, for the time being, the said Colonel Fletcher, who was a great benefactor and promoter *of the first settling of* THAT CHURCH, did remit the rent during his time FOR THAT PIOUS USE, also did the Earl of Clarendon, so much as accrued under the lease granted in his time.

* * * * "We taking the the premises into our royal consideration have thought fit to signify our will and pleasure unto you, and accordingly our will and pleasure is, that immediately upon receipt hereof, you do stop the prosecution now carrying on in our court of chancery there against the SAID CORPORATION, &c."

Thus, Sir, you find in the very act confirming to the church the property which is now the source af its revenues, the corporation is described *precisely as it was subsequently described in the act of* 1814. Trinity has been denounced and deceit has been attributed to her for having the corporate name changed in that act. It has been charged that it was a new title invented by the vestry of that day, in order to exclude as corporators, the congregations of the other city churches; in other words, that the first section of the act of 1814, was but the pretext for enacting the second. And yet we find that in 1814, *she only took the same name given to her a hundred years before in Queen Anne's grant, when the largest portion of her estate was bestowed upon her.* I think, Sir, that is a respectable authority for a name. I think that when we go back to Queen Anne's time and find that her grant is to *the* rector, church wardens and vestrymen *of Trinity church*—we go back about far enough. Could you desire any evidence more conclusive as to who was included within the scope of the charter, than the passages I have read to you? It does not seem possible that a mind, not biased against all reason, can rise from the perusal of that instrument without conceding that we are right.

Trinity planting herself upon that *magna charta*, stands upon a rock that will endure forever. Whatever we may think of it here, the Supreme Court of the United States, will regard it as a bulwark which no legislature will be suffered to destroy. Nothing is said in that instrument about dividing up the estate of Trinity, as the Senator from the 6th (Mr. Brooks,) has it in his bill, among the churches in the state of New York—or of the colony of New York, as it was then called; there is no provision for a partition and distribution of her funds between the city and country churches.

Now Sir, when a legislature undertake to override and disregard a muniment of title like that, I think it becomes an occasion for displaying a little "feeling," although the Senator from the 22nd (Mr. Noxon,) told us the other day of his "surprise," that the question should excite "any feeling." I think any American citizen having a reasonable pride in his country, and a reasonable respect for vested rights; and who believes that in a proper regard for private rights, rests every hope of the success of our experiment of free government, might well be excused for displaying a little feeling at witnessing this grave and deliberate attempt to violate them. For if this grant is not sufficiently explicit and does not mean what is claimed for it, what *can* be deemed sure? What man is safe under his own roof and by his own fireside? Where, under our laws is there to be found security in any possession?

The amazement that has been expressed at the exhibition of "feeling" on the part of Trinity and her friends, remind me of an incident which occurred a few years ago in New York. We had a few philosophers among us at that time, who had a notion of limiting the extent of the possessions of every citizen; they proposed to fix bounds beyond which a man's acquisitions should not go; they undertook also to provide for the equal distribution of the excess; this programme was seriously proposed to a member of the general committee of the Democratic party, with a request that it might be introduced at Tammany Hall. My friend, after hearing the parties, said, "Well, you propose a fair division; but a thing like this may be expected to occasion a good deal of dissatisfaction. Now, if you will add to your

platform that there shall be *no grumbling* on the part of those who under its operation may lose their property, then, I think, it will go!"

The second section of the act of 1814 goes on to define those who shall have the right to vote in the corporation. You would suppose, while listening to the denunciations that have been heaped on Trinity by her assailants; and while hearing the honorable senator from the 22d (Mr. Noxon) hold Trinity up as a "close corporation," whose most conspicuous desire was to keep all the world out; you would suppose this vestry were a group of avaricious, grasping, greedy men, eager to usurp power not belonging to them, and desirous of excluding every one they could from their church. But, sir, look at the accusation, and then look at the truth, as seen in the act of 1814. What is necessary under that law in order to obtain the right to vote? Is the door of the church guarded by a roaring lion, or by threatening artillery? Is the man who would approach the ballot box, menaced by any fearful danger? Let us judge from the words of the second section of the act:

"And be it further enacted, That all male persons of full age, who, for the space of one year preceding any election, shall have been *members of the congregation* of Trinity church aforesaid, or of any of the chapels belonging to the same, and forming part of the same religious corporations, *who shall hold, occupy, or enjoy a pew or seat in Trinity church*, or in any of the said chapels, *or have partaken of the holy communion therein within the said year, and no other persons*, shall be entitled to vote at the annual elections for the church-wardens and vestrymen of the said corporation."

Well, what less would you have? Can the human mind conceive of any established religious corporation, guarded by any restrictions at all, where the qualifications are milder, fairer, more reasonable, and more in consonance with the spirit that should animate such institutions, than those imposed by this section? Let us now see how you would have it read: Be it enacted, &c., &c., That "all persons who for one year shall have been members of Trinity church or any of her chapels, *or of any other church or chapel*, and forming part of the same, *or of any other*, religious corporation, and who shall hold, occupy or enjoy a seat or pew in Trinity church or any of her chapels, *or in any other church or chapel*, and who shall have partaken of the holy communion therein *or anywhere else* within the year shall be entitled to vote at the annual elections for the vestry of Trinity church." And thus you would confer upon strangers the right to choose the rector of a church as against its congregation. A congregation shall not say who shall administer the holy communion at its altar! Nor who shall have charge of its grave-yards and control and manage its estate. And would this be justice? No, sir; no more than it would be justice to invade the family circle and deny the natural right of the father to be the chief of his own household. And let me assure you it is as dangerous to impair *the right of self-government* in a church, as it would be to disturb the government of the Family. The two combined—the Church and the Family—are the basis of social order; liberty can not long exist where power is rudely employed against either.

The majority in this legislature, in their eagerness to grasp patronage and power, may usurp the government of cities; they may depose high municipal officers who have been elected by the people; but they will learn that a State whose government is based upon the principle of entire freedom of religious worship among all her citizens, will not permit a set of political adventurers to invade a church, and dictate the form and method of its internal government, and say who shall take part in its elections, and who shall minister at its altar.

There is a provision in the charter, Sir, which I think gentlemen on the other side will find it difficult to explain or to reconcile with their position; I allude to that provision which authorizes those to whom the charter is given, and their successors, to admit others "of our liege subjects," Episcopal inhabitants of the city of New York, into the corporation as corporators. Now, if *all* the Protestant Episcopalians in the city, were, as is contended, corporators under the charter, how would it be possible to let in any more? If all possessed the right of corporators under the original instrument, it was certainly unnecessary to provide for any extension of that right. This clause, among others, proves that a limited corporation was created; a corporation limited to the rector and congregation of Trinity church; to those who should hold an ecclesiastical relation to that rector, in his church or in the chapels under his control and ministration.

In England, a *parish*, besides an ecclesiastical, has a geographical, as well as a political sense. But in the state of New York, there is no sense in which you can apply the word "parish," except to the Rector, church wardens and vestry of some particular church and its chapels; there is no proper sense in which we can interpret the meaning of "the parish of Trinity," except as a designation of the congregation of Trinity and its chapels—the religious body which recognize and acknowledge the Rev. Dr. Berrian as their Rector. This is the American idea of a "parish." We have no such political division of our territory as "parishes." We have towns, and counties, and cities and villages; the word "parish" with us does not convey the notion of space. It simply means the congregation of a church, and the Rector and parish officers who preside over them.

Now, what is it that you propose to do? To force into this religious association two or three thousand people who do not belong to it; who never hear its Rector preach; who never receive the communion at its altar. Sir, this is to destroy the independence of the congregation, and to erase every vestige that remains of the or-

ganization called a "parish" as it exists in this country.

One of the fundamental errors lying at the root of this controversy is the idea that any part of the property possessed by Trinity church is held *in trust*. What she possesses, she possesses as her own. Those Senators who maintain that her estate is held in trust, will be puzzled to reconcile the contradictions in their different theories as to the bounds of that trust. Those members of the other city churches who have heretofore asserted rights as corporators of Trinity have argued that the property was given in trust for the inhabitants *of the city of New York*, in communion with the Protestant Episcopal church. The two or three persons who claimed the right to vote in 1812, and those who applied to the legislature in 1846, claimed this, and no more. But whence do you derive the new doctrine that the trust is not limited to the city, but comprehends the churches throughout the state? And unless that *is* the nature of the trust, what power have you to direct the distribution of the funds for the advancement "of religion and religious education in the state of New York?"

Again, if any part of the estate is held in trust, then *all* is held in trust because all is held by the same title; why then give to Trinity the church and chapels she now occupies, the cemeteries she possesses, the lands which are reserved to her in the bill of the Senator from the 6th? If the estate is held in trust for the city and state, these parcels are so held; and so, upon your own reasoning, you have no right to concede to her the absolute ownership and control of any portion of the estate?

By what power do you draw the line and say, "thus much you have in trust, and thus much you own absolutely?" Upon what basis do you draw this distinction? Those who now claim to participate in the whole, may well deny the right of the legislature to deprive them of any part. The church holds all her property by the same tenure. She either is entitled to all or none. Then Sir, either take the whole or none. Make no partition of her estate. It either belongs to her, or it does *not* belong to her. If it does not, the vestry do not desire to keep it. But if it does, then they do desire to keep it, and they mean to keep it while there are courts in the land, to maintain the law of the land!

It is a mistake to suppose that the *corporation* of Trinity church, is distinct from the *congregation*. The congregation is the soul of a religious corporation in this country. It is the basis of an ecclesiastical corporation, as it is of a parish; a church corporation consists of a congregation and its ecclesiastical representatives, be they rector, church wardens and vestrymen, or such other officers as the rule and discipline of the church may prescribe. That is the whole of a religious corporation, as it is of a parish, and so, when you invade a religious corporation and interfere with its landed possessions, you attack the congregation of that church; you cross its threshold, you enter its doors—you intrude into its aisles—you put your profane hand upon its altar! You commit an act of sacrilege as much as if you robbed that altar of its gold and silver. The magnitude of the plunder does not serve to dignify the act. You have no more right to take half of the Queen's Farm, than you have to pillage the baptismal font. The church holds both by the same title, and you have no better right to the one, than to the other.

Now Sir, if there is any one essential element in the organization of every church, Methodist, Presbyterian, Episcopal, Catholic or Congregational; if there is any fundamental characteristic common to all churches, it is this—that only those who go to a church, who worship in it, who hold and enjoy a pew in it, have the right to direct and control its temporal menagement. That is a universal truth. It is true of every church, no matter what its denomination or where its location. And it is just this universal fact which you ignore, when you say to the congregations of Grace church, of Ascension, and of the other churches independent of Trinity, "we will make an exception in your favor against the rules which have guided and governed all church government in all time, and allow you an equal share in the control of a church to which you do not belong: whose rector you never hear preach, and at whose altar you never kneel."

How is it possible, Sir, if a congregation has any material relation to the corporation, for a man to be of the *corporation*, unless he is of the *congregation*? The one follows of necessity from the other, and is based on the best of all possible reasons. Every congregation must have an adequate, proper, salutary check upon the admission of new members into the main body; just as the constitution wisely gives to this Senate the power to judge of the eligibility of those who sit around this circle. But this essential principle you break down when you admit the members of other congregations to interfere in the control and management of a church to which they do not belong.

I must say that my colleagues from the 6th (Mr. Brooks), and from the 5th (Mr. Spencer), deserve credit at least for their rare ingenuity, in discovering a plan by which a person can belong to two—yes, to *fifty* churches at the same time. But why not be as liberal to Trinity as you are to the other churches of New York? You have allowed these fifty and more churches a share in the government of Trinity; then why not allow Trinity also to participate in the control of the others? Why not? You certainly would be consistent with yourselves, at least, in so doing. A man could then belong to Trinity and Grace church, and forty or fifty other churches, in the same way that one can join all the clubs of London. If you divest the church of the unity that belongs to it; if your notion of a church is like the Englishman's notion of a club, where you can do as you like—read the Bible or the newspaper—take dinner or play a rubber at whist,

then I can see that there is an object in being a member of forty or fifty churches at the same time. But on any other hypothesis—unless a church is like a debating society or a scientific association, I must confess I see an incongruity in a communicant voting in more than one church, or belonging to more than one congregation. According to my old fashioned notions, it seems just as repugnant to Christianity for a man to belong to two churches, as to have two wives. I have no doubt that in the Mormon church, a "saint" may belong to as many churches as he may have wives, according to that modern dispensation!

Now, sir, if Trinity possessed separate and detached estates, yielding incomes which were susceptible of subdivision; if you could say this property was acquired at such a time, for such purposes, to be administered in such a way; and that was acquired at some other time, for some other purpose, then the partition you propose might possibly be reconciled with justice. But the estate, the church, and the corporation form a unit. There is Unity throughout—indivisible, inseparable Unity—embracing the rector, the vestry, the congregation and the estate; and you can no more separate this estate from the corporation than you can take away from it the rector, the wardens or the congregation. It is all one. Each is a constituent part of the unit, but it is a unit always.

This view of the impossibility of belonging to more than one church at one time is not new. It is as old as church government. But it is also the *law* of New York. Let us read the law of 1801, as confirmed in 1819, and see what it provides:

"Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the male persons, of full age, belonging to any church, congregation or religious society, in which divine worship shall be celebrated according to the rites of the Protestant Episcopal church in this state, *and not already incorporated* at any time to meet for the purpose of incorporating themselves, and of electing church wardens and vestrymen, and to proceed to make such election, and to effect such incorporation in like manner as by the first section of the act hereby amended, is authorized to be done by persons possessing the qualifications therein specified: Provided, That *no person not possessing those qualifications shall be permitted to vote* at any subsequent election of church wardens and vestrymen."

That is the written law of New York, and has been for forty years past. It was the unwritten law always and everywhere, and the act I have read is only the Common Sense of Mankind, embodied into a statute, and made operative as a law. The state of New York has said, in the acts of 1801 and 1819, that a man can not enter a new congregation or corporation until he secedes from that to which he already belongs; and so when you pass a law allowing one congregation to acquire control in another, you pass a law inconsistent with existing statutes, and you must repeal the one before the other can become operative.

When Dives moves up town; when he looks back and sees none but the poor remaining in the lower parts of the city; when nothing but stalwart laborers and suffering emigrants meet his eye, and visions of ship fever float before him; when he beholds only Lazarus and his companions hanging about the doors of Trinity, it is under the law of 1801 and 1819 that he ceases to be a corporator of Trinity; builds a new church, becomes a member of a new congregation, puts himself in charge of a new Rector, new wardens and new vestrymen, and severs himself entirely from Trinity parish. And, sir, he must remain satisfied with his comfortable change of position until he survives his repugnance to driving down Broadway to Trinity, to worship beneath her majestic arches, beside some of my poor constituents, where he would be admonished of that equality of all men before God to which no good Christian can object. Until he does this, sir, he can not exercise the rights of a corporator of Trinity church. But whenever he will condescend to return to that unfashionable temple then will he become once more invested with all the privileges and powers of a corporator, without legislative interference, without law suits, simply by participating in the ministrations of Trinity church.

But, sir, the strange idea of allowing members of a congregation to vote in a church to which they do not belong, does not approach the absurd proposition of allowing other *corporations*—other churches, to vote down a rival congregation and thereby get possession of its property. The bill reported from the select committee by my colleague from the 5th (Mr. Spencer), allows *all the individual members* of the other Episcopal churches—three or four thousand strong—to come to the elections in Trinity church, and outvote its comparatively feeble congregation,—appoint its Rector, ministers and vestry and take its money. But the bill offered by my colleague from the 6th (Mr. Brooks), attains its end in a yet more extraordinary style. He would give the right of suffrage to the corporations, in lieu of the individual members of them. He gives to half a hundred or more religious *corporations*, each a vote in controlling the affairs of another corporation. Each one of these churches, entirely independent of each other with respect to its own affairs, is to be allowed a share in the government of the corporation of Trinity church.

What would your practical business men say to a bill brought in here to give to forty rail road corporations in the state, a voice *as corporations*, in the control of the Central Rail Road? That is a large corporation, and so is Trinity church. That possesses a vast amount of money, and so does Trinity church. A great many people who are not in that corporation, grumble about it, as do a great many who are outside of Trinity. A number of persons are anxious to

have a hand in the management in this colossal rail road company; and quite a number are ambitious of taking part in the control of Trinity church. Now, you have just as much power to give the control of the Central Rail Road to these "outsiders," as you have to give to the congregations of other churches the management of the affairs of Trinity. You have, indeed, more right; for in the one case you have reserved certain authority over the corporation to alter, amend or repeal its charter, which power in the other case has not been reserved.

What would be thought of your sanity if your rail road committee should report a bill authorizing these other rail roads to send delegates to a rail road congress at Albany to choose one-half of the directors of the Central Rail Road board? This is in reality what you now propose, applied to a church. And the same holds good with respect to a bank. You might with just as much propriety select some great city bank, with too much money in its vaults, and bleed it by admitting forty or fifty other banks to an equal share in selecting its board of directors.

Is there a Senator here who does not know that the real, naked, undisguised reason for this attack upon Trinity, is the *magnitude of her possessions*? Let us suppose that Trinity church, instead of possessing an estate worth millions, had only ten thousand dollars worth of property, and a small village church in which a poor and worthy congregation worshipped; there is not a man living who would suffer a crowd of opulent churches to step in and control its management and appropriate its humble estate. Why, Sir, our sanction of such an act would justify the taking up of arms; and every man who worshipped under a thatched roof, instead of a gilded one, would feel his own rights invaded, and would make common cause with the oppressed.

But whilst you meditate this wrong against Trinity because she is possessed of wealth, and fancy you are secure in that general prejudice which looks with an envious and sinister eye on the rich—will you not remember, that accident has made her rich? Do you suppose that William, or Anne, or Clarendon, ever dreamed when they bestowed this estate upon Trinity, that it would be worth millions? Do you suppose that when they gave her that miserable patch of land worth £50 a year, that they imagined they were giving her enough to endow fifty churches in the city and two hundred churches in the interior? No; but they believed it would yield enough to support *one* Rector, for *one* congregation, in *one* parish; and that is all they dreamed would ever come of it. In the times of William and Anne, no man ever supposed, in his wildest fancy, that New York would attain its present opulence and magnitude. And yet you are arguing this case on the supposition that the donors foresaw the future grandeur of New York and gave this property, in trust, for the support of fifty churches that would be erected in the city in the course of time; and for two hundred more churches to be erected in what was then the unpenetrated, and apparently impenetrable wilderness, spreading from the lakes to the ocean. And it is upon this preposterous supposition that Senators seek to justify the seizure and partition of this estate.

The bill of my colleague from the 6th (Mr. Brooks), leaves to Trinity church, as I have said, the privilege of baptizing, of administering the communion, of marrying, of burying the dead, of handing round the plate and disbursing the charitable collections in her own congregation. It reserves to her all her religious avocations, and kindly relieves her of all her surplus estate, to transfer it to the uptown, sweet-scented, and highly-perfumed Christians, who, from having accumulated so much property of their own, have acquired also a marvelous facility in taking care of the property of others. Well, this may be all fair enough according to the views of the Senators who propose and uphold it, but I would like to be informed, if you take one half of the property now, how long it will be before the other half will follow? It will be said, "the church and chapels are occupied now almost entirely by the poor, and only a handful of the old residents remain; give us another law authorizing the sale of the church buildings and the valuable grounds on which they stand, and the appropriation of the proceeds by these gentlemen who are so ready to spend what does not belong to them for the advancement of the interests of the church? Let us sell St. Paul's and put stores on its site; we can build for the congregation—quite an unfashionable set of people—a ten thousand dollar church in a cheap corner. It will be all the same to them, and will certainly pay us better." Thus will it be Sir, if we yield one inch of ground to these demands. There will be no limit afterwards.

When I find that a few thousand dollars for each, will induce an organization of churches to grasp a portion of this sacred estate, I am not one to believe that they will hesitate long about selling the grave yards on Broadway when millions stimulate the temptation.

There is a class of persons engaged in this scheme to obtain control of the estates of Trinity, who expect through it to enable "low church" to obtain an advantage over "high church." They say to themselves, "Trinity church is rich, she is able to give liberally—to make her Christianity practically and beneficially felt. Our programme, to be sure, is highly spiritual, but it is cold, statuesque, abstract. But the ministration of Trinity is warm; it is real; it is human. She seeks out the poor, the sick, the ignorant, the helpless. She is daily and hourly fulfilling the offices of the good Samaritan. We can not do these things, because we do not wish to encourage the revival of those medieval high church customs; and besides, to enable us to imitate her example, we should have to put our hands in our own pockets. We *might* do so, however, could we thrust our arms into the treasury of Trinity."

This measure was at first brought forward,

under the pretext of saving the estate from waste and extravagance; but all the rumors about financial mismanagement are now silenced by the testimony *reluctantly* spread before the Senate by the committee, and which was recently taken here in Albany.

The rector, ministers, wardens and vestry have been so triumphantly vindicated by the testimony that it is absurd now to put this measure upon the ground of improper or unwise management of the funds by the vestry, or of any unfaithfulness in the discharge of their trust by the officers or ministers of the parish. Will you, then, sitting in this Senate Chamber, allow your power to be insidiously invoked to give to one class of opinions in a church an advantage over another? Have you so mistaken the principle of religious freedom, so long cherished in this commonwealth, as to allow this invasion of the sacred circle which the constitution and the laws have drawn around every church in the land?

"The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and with indignation, that sudden changes and legislative interferences, in cases affecting personal rights, become jobs in the hands of enterprising and influential speculators; and snares to the more industrious and less informed part of the community. They have seen, too, that one legislative interference is but the link of a long chain of repetitions; every subsequent interference being naturally produced by the effects of the preceding.'"—*Letters of Publius, or The Federalist*, (*No.* 44, *by Mr. Madison*).

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Senators, you have seen that history has pronounced a severe judgment upon the attempt of James the second, to interfere with the government of a religious corporation. It was one of the proofs of his disregard of vested rights which led to the revolution that drove him from his throne. This example ought to be instructive to you. The volume of history is not yet closed. You will have your historian. Your transactions will occupy a page in the history of your times.

The enactment of this law will entitle you to be chronicled as the first Senate in the history of the state, that has trampled upon the vested constitutional rights of its citizens and despoiled a religious corporation of her estate. Sir, history will not fail to take notice of this instance. Those who do the deed, will go down the stream of time without honor, and on their foreheads will be branded the initial letters descriptive of the act. History, with her calm eye and ever ready pen is looking down upon you now, and will inscribe you on her tablets as either honored or disgraced, as you shall stand the test of this issue. The church may be on trial now, and here; but in the presence of mankind, and of future ages the state will be on trial hereafter,—this noble state, whose high trusts, and functions, and power, you now hold and exercise. The church may suffer and fall to-day; but you, in the estimation of all good men, will fall for ever.

This is a cause beyond our jurisdiction and out of our Legislative control; but if you are resolved to usurp jurisdiction, you are at least bound to dedide it upon your oaths, *according to the law of the land*. And if you do not understand what the law is, it is your duty to find out what it is, before you decide between two rival claimants of private property.

What is meant by the law of the land?—"Are then these acts of the legislature, which effect only particular persons and their particular privileges, laws of the land? Let this question be answered by the text of Blackstone: 'And first, it (i. e. law) is a *rule:* not a transient sudden order from a superior, to, or concerning, a particular person; but something permanent, uniform, and universal. Therefore, a particular act of the legislature to confiscate the goods of Titius, or to attaint him of high treason, does not enter into the idea of a municipal law: for the operation of this act is spent upon Titius only, and has no relation to the community in general; it is rather a sentence than a law.'—1 *Bl. Com.* 44. Lord Coke is equally decisive and emphatic. Citing and commenting on the celebrated 29th chap. of *Magna Charta*, he says, 'no man shall be disseized, &c. unless it be the lawful judgment, that is, verdict of equals, or by the *law of the land*, that is (to speak it once for all), *by the due course and process of law*.'—*Co. Ins.* 46. Have the plaintiffs lost their franchises by 'due course and process of law?' On the contrary, are not these acts 'particular acts of the legislature, which have no relation to the community in general, which are rather sentences than laws?' By the law of the land is most clearly intended the general law; a law, which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial. The meaning is, that every citizen shall hold his life, liberty, property, and immunities, under the protection of the general rules which govern society. Every thing which may pass under the form of an enactment, is not, therefore, to be considered the law of the land. If this were so, acts of attainder, bills of pains and penalties, acts of confiscation, acts of reversing judgments, and acts directly transferring one man's estate to another, legislative judgments, decrees, and forfeitures, in all possible forms, would be the law of the land. Such a strange construction would render constitutional provisions of the highest importance completely inoperative and void. It would tend directly to establish the union of all powers in the legislature. There would be no general permanent law for courts to administer, or for men to live under. The administration of justice would be an empty form, an idle ceremony. Judges would sit to execute legislative judgments and decrees; not to declare law, or to administer the justice of the country. 'Is that the law of the land,' said Mr. Burke, 'upon which, if a man go to Westminster Hall, and ask counsel by what title or tenure he holds his pri-

vilege or estate *according to the law of the land*, he should be told, that the law of the land is not yet known; that no decision or decree has been made in his case; that when a decree shall be passed, he will then know *what the law of the land is*? Will this be said to be the law of the land, by any lawyer who has a rag of a gown left upon his back, or a wig with one tie upon his head?"—*Webster.*

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This is no mere question of expediency, on which a Senator may choose to think as he pleases. It is not for you to decide it, as a matter between high church and low church—between city and county—between one party and another party in the church.

It is quite unlike most of the commonplace questions before us, in regard to many of which whether we vote or not, or on what side we vote, makes very little difference, and on the passage of which we not unfrequently turn round and ask a colleague what it is all about? "Is it all right?" "Yes," "well then I vote aye."

Trinity church appeals to the conscience of the State. You are its keepers. You are responsible to history and to God for the vote you are now to give, and you will be held to that responsibility here and elsewhere, now and forever.

Sir, there is an incident in the history of the great Napoleon, not without aptness to the present occasion, that conferred more honor upon him than any battle he ever won. He desired to remove a humble dwelling in one of the streets of Paris, in order that he might complete a contemplated improvement upon which his heart was set. The owner of the dwelling refused to sell it. It was his home and he loved the place. He was a loyal subject, and would have been happy to serve the Emperor, but this was a thing in which he could not yield, even to the idol of France.—Force was hinted at, but the man was told there was a law for the poor as well as the rich; and that his rights were sacred, even from imperial encroachment, and he stood firmly to his purpose.

The crown lawyers consulted together to discover, if possible, some mode by which the coveted ground could be legally secured to the State. But they found that the law would not warrant its seizure under any pretence, and as a last resort they again counselled force. They told the Emperor, that for so admirable an improvement, the people would commend the act, and history would justify it. Napoleon pondered a moment in deep thought and then exclaimed, "No! LET IT STAND AS A MONUMENT OF MY RESPECT FOR THE LAW!"

When Mr. Sickles took his seat, there was considerable applause from the lobbies, which had become very densely crowded during the delivery of his speech. The demonstration was immediately checked by the Chairman.

Mr. Brooks then amended his bill so as to provide that "the residue" of the "income and proceeds" of the church shall be applied "*to the general purposes of the original grant*," instead of "to the purposes of religion and religious education in the *city and state* of New York."

Mr. BRIGGS: Mr. Chairman. We have now had a long session of over seven hours. The evening is far advanced, and as the Senator from the 6th (Mr. Brooks) will scarcely be able to finish his reply to-night, and may require more time to reply to the argument of the Senator from the 3d (Mr. Sickles), and as others may desire to be heard on the question, I should suggest an ajournment at once. I move, therefore, now to rise and report progress.

Mr. SPENCER: Oh, no! I hope that will not be done.

Mr. NOXON: No. Let us get through to-night.

Mr. BRIGGS: Well, if the motion does not meet the views of the Senate, I withdraw it.

MR. BROOKS' SPEECH.

Mr. BROOKS: Mr. Chairman. I am obliged to my friend the Senator from the 12th (Mr. Briggs) for his motion to give way; but I should neither be doing justice to the Senate, nor discharging what I consider my duty to the public, if at this late day of the session I occasioned any further delay on this question. I supposed that there was an understanding between my colleague from the 3d (Mr. Sickles), and the friends of this bill, that there was to be such a partition of time as would have enabled all to express their views before 8 o'clock, which was the hour fixed upon for taking a vote, and had my colleague closed his speech at that hour, I should have been willing to have let the matter go to the Senate without any remarks from me. But assailed as my substitute has been day after day, and hour after hour; exhausted as I am by a session of nearly ten hours, and by a long journey from New York; pulled hither and thither as I am by the business attendant upon three important committees—now having to hear statements and counter statements about a charter—now about a police bill—and now again about the exterior water lines along the shores of New York and the rivers leading to the ocean—I feel that I should be doing less than my duty did I fail to reply to the assaults that have been made upon the proposed measure. Nevertheless, I approach this discussion with much diffidence, because I find myself differing from distinguished men in the legal profession, in and out of this chamber, on the question of the law that governs this case; and with much reluctance, because I do not feel prepared to occupy the time of the Senate at this late stage of the session.

Sir, I never had that overweening confidence in my own judgment on questions of law which many seem to have. I have not, probably the facilities for arriving at decisions and authorities touching legal questions that some of my colleagues enjoy, and therefore I can not arm myself with a long list of cases decided in the courts that seem to bear out the view I take of the subject. But I have decided to look at this bill from some stand point, from whence I could dis-

cover the true way to do justice between these parties; and although I must confess that I have found myself at times moving to and fro, like the pendulum of a clock, I believe I have found at last a position which I believe to be right; and novel as this proposition is—singular, profane, debased as it is—I wish I could remember all the epithets that have been heaped upon it by the Senator who last addressed the Senate—I yet consider it as a fair and equitable proposition as between the contesting parties.

Sir, I am the autor of that bill. It gave me a great deal of anxiety to know what I should do upon this question. It has cost me many a thoughtful hour in the solitude and quiet of my own chamber. I desired to do what was right. I wished that Trinity should be protected in her church edifices—in the lands that properly belong to them—in her burial places—in all that is rightly her own. I said to myself, this is not enough. Trinity is not the mean, sordid corporation which some have represented her to be. She has bestowed liberally out of her means upon other churches, and made provision for the poor of her parish. I therefore made a provision in the bill by which Trinity was to be custodian and disburser of all the funds appropriated for the church, and of all its charitable collections. I then said to myself, it is not right that Trinity should be before the world owing $600,000. I therefore made provision for the payment of her debt. And the residue of her income and the proceeds of her estate I provided should be applied as it seemed to me would do the most good in the service of the church. Therefore, Mr. Chairman, in answer to, and in refutation of all that has been said against this bill of mine by the Senator from the 3d (Mr. Sickles), I affirm that Trinity is protected by that bill in her church edifices, her church yards and cemeteries that every stone and every grain of sand where lie her illustrious dead, is held sacredly to be her's and her's alone for ever; and that the pictures of stores and warehouses and post offices be built upon her estate, exist only in the imagination of the Senator (Mr. Sickles).

We shall not rob the living nor the dead. We are not the Jack Cades nor the Ledru Rollins which the Senator from the 31st, in the very wildness of his fancy, pictured us to be. The graves of Montgomery and Emmet, honored names in two hemispheres, and none the less honored by me because they were Irishmen born, I promise my friend shall remain undisturbed in the church yard of St. Paul's to the latest posterity; and so shall rest in all the quiet repose of the grave the ashes of Hamilton and Lawrence in the church yard of Trinity. The genius and services of Alexander Hamilton, more than those of almost any other of the heroes and statesmen of my country, first awakened in me an interest in the civil service of the land. He honored America, and by his candor, frankness and intelligence, he honored Trinity church of which he was a counsellor and a friend. Sir, the members of the Episcopal church, outside of this one corporation, are not hyenas that they should disturb graves like these. There are neither vandals nor hyenas in the city of New York, or if there, they are not of the Episcopal church, I hope. Gentle men forget the extent of their accusations and against whom they fall when they indulge in such assaults upon patriotic and religious citizens. The noble spires of old Trinity, St. Paul's and St. John's will continue to point to heaven, monuments of the piety of those who worship within the consecrated walls which support them, and of the generosity of their founders. The solid walls of Trinity chapel, in like manner, will survive generations of worshippers, and, as in Rome, the Coliseum stands, linking as in an unbroken chain the new with the old, so these noble piles will endure to the end of time.

I am not able, like my colleague, to say that I am an Episcopalian, either in faith or by parentage—either by baptism or marriage. Vows of duty nor vows of love bind me to the imposing forms and ceremonials of the church whose feelings are so deeply enlisted in this unfortunate controversy. I was bred in a simpler and perhaps a severer school of religious discipline; but if I know my own heart, incapable of saying aught or doing aught prejudicial to those of another faith. The American State, thank God, knows no breed but the law of liberty and the law of love. The Constitution, founded upon enduring principles of natural right, disowns creeds and sects, except as in the eye of a true form of civil government. All are equal and all worthy of protection from aggression upon the one hand or oppression upon the other. We have been charged here, not merely with innovation, but revolution for the seven hours past, and until the patience of the Senate must be exhausted by the repetition of the charges.

Let us see what are the provisions of the bill I have introduced. It contains three distinct propositions:

FIRST—That Trinity church shall choose one churchwarden and ten vestrymen, and that all the other Episcopal churches in the city of New York, in communion with the Episcopal churches of the diocese of the state, shall choose the same number, in a manner prescribed in the act, and that these two wardens and twenty vestrymen, with the rector of Trinity church acting as their presiding officer, shall together meet and apply the income of the corporation, first to the payment of the interest on the debt due, and then to the extinguishment of whatever of the principal they may deem expedient.

SECOND—And even before any provision of the means secured can be disposed of for other purposes, a sum sufficient for the proper maintenance and support of Trinity church and its chapels is to be provided. All the ministrations of the church for the support of the pastors, for Sabbath schools, for visiting the poor, for the renovation and repair of church edifices, are provided for from the general income, and this maintenance and support, to any reasonable and just amount, is to be disbursed "*under the sole*

direction of the Rector, Warden and ten Vestrymen of Trinity church, or chosen by the communicants and pew holders of said church." What is left of this annual income is to go to "the support of the general purposes of the original grant," as these purposes or uses may thereafter be set forth.

THIRD—Interference is forbidden with any of the property now possessed by Trinity church and her chapels. The church edifices, church yards, cemeteries, furniture, are to be under the exclusive control of the rector, warden and ten vestrymen whom she is to choose with the rector, assistant ministers and all parish officers. All appointments, all money, appropriated or collected are to be disposed of as now—at the good will and pleasure of those selected to regulate disbursements.

The Senator from the sixth was pleased in the course of his speech to speak of the radicalism of this proposition in connection with the comparative purity of Tammany Hall. Nothing so bad if we are to believe the Senator ever entered the immaculate precints of that pure and holy place! Tammany Hall and Trinity church!—Well, sir, the antipodes meet when things so unlike are placed together. With the mutual respect my friend entertains for these two temples, I presume he is prepared to say with the Psalmist, that "mercy and truth are met together, righteousness and peace have kissed each other." I respect Trinity church and Trinity corporation, the congregations and chapels, far too highly thus to mingle the divine with the profane. I have heard high enconiums paid the democracy before to-day. I have heard it declared as a sentiment that "democracy was practical Christianity," and doctrines even more profane than this have found utterance, but I hope not belief. My friend whose mind thus runs from Trinity church to Tammany Hall charges my proposition with being "an attack upon the church by the state." We "are making," he says, "aggressions upon the Episcopal church." My bill is worse than the committee's bill," and it is classified with the most abominable measures that the wit of man ever conceived! Well, sir, this is harsh criticism, and its want of candor teaches me the truth of the satirist when he says, "of all the cants in this canting world, though the cant of hypocrisy may be the worst, the cant of criticism is the most tormenting." At the opening of this discussion the Senator from the 31st (Mr. WADSWORTH) characterized the elections, which would be held under the original bill, as bringing together "a body of persons worse than a Five Points mob!" Well, sir, this was not very complimentary to the subject, and still less so to the Episcopalians of the city of New York. But now my colleague tells the Senate that the bill of the Senator from the sixth is even worse than the original act! If it be worse, I hope it may be defeated. If there be in it any semblance to a mob spirit, anything of robbery or plunder, spoliation or revolution, I hope my substitute may not only be defeated but scouted from the chamber. My bill, too, is not only altogether atrocious but wholly unconstitutional! Well, sir, I think my colleague ought to thank me for bringing forward so monstrous a proposition, for if it is not thrown out of the Senate in disgrace it will surely be turned out of the courts. I wish, Mr. Chairman, that the opposition to the substitute could be made to assume something like consistency or steadiness of purpose. The argument of my colleague is as variable as a March wind, and as uncertain as an April shower. Through one hour he tells the Senate that it is robbery and spoliation, and through the next hour the argument is, that "we are paying a miserable stipend to Trinity!" "We are taking property from Trinity and giving it to outsiders to possess and control at their own good will and pleasure!" This is the position at one moment, and at the next we are told that these "outsiders do not ask for my bill." The argument just now was, that the country was provided for in the amendment, and that the Senate had no right to provide for such an appropriation of the estate of Trinity; and yet an hour before it was said that Trinity, in the abundance of her goodness, had always been liberal and bountiful to the country churches, and therefore that they should not desert her in this her extremity! Sometimes there is an appeal to the city and sometimes to the interior of the State. Circumstances alter cases.

The Senator from the third dwells upon the authority of the law of 1814. I shall also have occasion to refer to the history of that act hereafter, and to show that the non-observance of the spirit of its provisions has been the cause of the dissatisfaction and ill-feeling which have grown up among Episcopalians in the city of New York. The true and full history of the law of 1814, has not yet been written, and I shall have occasion to show that history before I close my remarks. I will only state here, in passing, that this law changes the title of ownership. It ignores the right of the inhabitants in communion with the Protestant Episcopal Church in the city of New York,—rights which had been recognized for one hundred and seventeen consecutive years. We shall see, as we progress in this discussion, where the innovation and aggression charged upon this side of the chamber begun, and where it lies. We shall see, too, that the "race of giants," as my colleague calls the members of the Legislature of 1814, were not then upon his side of the question. Men of the forecaste of Martin Van Buren and Erastus Root, then State Senators, voted against the act, and though there were but nine Senators who voted with them against the bill, it could not have received nine votes without the fifth section, or without the proviso. The parties aggrieved now claim that the spirit of this fifth section and the spirit of this proviso may become the law of the state, and they reason upon good premises, that the same legislative power which imposed the wrongs favored by the Legislature of 1814, may remove the burdens now.

The act of 1814 was not a well considered law. In proof of this let me give its history from the journals of the Senate and Assembly. The first we hear of the subject was at the close of the session of 1813, on the 17th of March, when a petition was presented purporting to be from the rector and inhabitants of the city of New York in communion of the Protestant Episcopal Church in the state of New York. The prayer was for an act altering the name of the incorporation and settling the question that might arise in consequence of the incorporating other Episcopal congregations in said city, and doing away the necessity of exhibiting an inventory and account of their estates and revenue more than once, unless upon the acquisition of additional property.

All the consideration this important act had was from the 17th to the 25th of March in the Senate, and from the 30th of March to the 2d of April in the Assembly. If there were standing committees then, this important bill had no reference to such standing committees. Like too many important bills in our own time, this was presented late in the session and pushed through both houses without due deliberation or sound judgment. But, Sir, it could never have passed, as I have already intimated, without promises then made and which have altogether failed. Let me do no unjustice to the authors of that act, and especially to the distinguished agent who was here when it passed. The fifth section, which was the chief agency in putting this bill through the Legislature, reads as follows:

§ 5. And be it further enacted, That when and as often as it shall seem expedient to the said Rector, Churchwardens and Vestrymen of Trinity Church in the city of New York to divide the congregation or corporators belonging to the said corporation, it shall be lawful for them so to do, *by setting apart, as a separate church, any of the churches or chapels that may belong to and form part of the said corporation;* Provided, the same be done with the assent of a majority of the persons entitled to vote as aforesaid, who shall belong to such church or chapel intended to be set apart, and who shall attend a meeting to consider of such separation, after at least ten days' notice previously given for that purpose in the said church or chapel, during or immediately after divine service. And such separation so assented to, shall take effect according to the terms agreed upon between the parties, and the members of the congregation of such church or chapel so separated shall immediately thereafter cease to be members of the corporation of Trinity Church above mentioned, and may proceed to incorporate themselves according to law, as a separate congregation of the said Protestant Episcopal Church, *and being so incorporated may receive from the said Corporation of Trinity Church any grant, conveyance or gift of any chapel or other real or personal estate for its separate use, and may hold and enjoy the same accordingly, as fully and beneficially as any such religious corporation can hold and enjoy its temporalities, howsoever the same may be acquired.*

The argument addressed to the members of the legislature then as now, was that no use would be made of the property secured under a new form of title, except in aiding separate churches and chapels as distinct corporations. The promise, kept to the ear and broken to the hope, was then and thus presented as "a grant," a "conveyance" or "gift" for a separate possession, use and enjoyment for any congregation in the city of New York of the Protestant Episcopal Church. Colonel Troup was the agent of Trinity Church at the time, and he was here in Albany to aid in passing the Bill. He was, from all accounts, a shrewd and able man, skilful as a tactician, and of large persuasive powers. He had a military reputation and was in all respects a man of winning manners and address. His argument in behalf of the bill, addressed to the council of revision, showed consummate tact and judgment, and it produced its effect upon Chancellor Lansing, who had given a strong opinion against the act of 1814, as one of the counsel.

It is true that Chancellor Lansing voted against his own well considered objections, and why he did so I shall have occasion to show. In the interval between the passage of the bill by the Legislature, and its consideration by the Council of Revision, or between April the 2d, 1813, and January 25th, 1814, he prepared a pamphlet of some seventy pages, which is now before me, and which is signed "New York, 6th September, 1813. ROBERT TROUP." It was written for the Council of Revision by the agent of Trinity Corporation. It produced its effect upon one of the members of that council. It made a tied vote in the council, and this result was produced, I am assured, and I am warranted in saying so, by the pamphlet of Colonel Troup itself. In this pamphlet, coming from one employed by, and authorized to speak for, Trinity Church, the council were urged to approve the bill, upon the ground that it would secure a liberal bestowment of the property belonging to the inhabitants of the Episcopal Church, in the city of New York, and under the direction of the Rector, Wardens and Vestry of Trinity Church. There are some statements and promises in this argument to which, just here, and now, I desire the special attention of the Senate.

On page 11, the claim of Episcopalians to vote, other than those connected with Trinity Church, is spoken of as follows:

"*As the claim to vote* has a tendency to create uneasiness in the minds of the members of Trinity Church in particular, and to excite dissentions among Episcopalians in general, *one of the objects of the bill is to obtain such an interpretation of the charter as will effectually extinguish the claim.*"

We shall see, as we progress with this discussion, how this claim was extinguished. I wish now to call your attention to the fact that there was a claim, and that the power of the Legislature, not of the courts, was invoked to remove it, and that upon promises of amendment which have never been realized. Accordingly on the 12th page of this same pamphlet we read again as follows:

"Judging from the past, it is morally certain that the future increase of the population of the city *will strongly recommend to the corporation of Trinity Church the policy of dividing its corporators, and setting them off, in separate churches,* with *suitable endowments; and, to enable the Vestry to do this, in a mode free from all legal doubts,* and *with the assent of a majority of the corporators to be set off, is a fifth object of the bill.*"

Here we advance from personal "claims," which were to be extinguished by the act of 1814, to the removal of "legal doubts," to be secured by the same act.

But the strong and effective appeal addressed to Chancellor Lansing, and one which changed his negative opinion to an affirmative vote, was embodied in words which I will now read, and which are more emphatic than any before uttered. They were intended to produce, and did produce a most marked effect upon all who believed what was said. Col. Troup, pages 36, 37 of his pamphlet, says:

"Besides settling the important question, relative to the elective franchise, and thereby preventing litigation, and establishing peace on a firm foundation, the bill, when passed into a law, *would have the happy consequence of enabling the Vestry of Trinity Church from time to time, as society shall advance, to separate the churches with the consent of their congregations, and to endow them with competent estates.* No power can be more congenial than this to the spirit of our republican systems. *The frequent execution of the power likewise* BY BREAKING DOWN THE ESTATE OF TRINITY CHURCH, *would allay the fears of those honest republicans who look upon large estates as nurseries of sentiments hostile to liberty: and it would calm the minds of those enthusiastic devotees who believe that religious societies, when possessing wealth, seldom employ enough of it in the heavenly work of propagating the gospel.*"

It is said that those who left Trinity Church have disfranchised themselves. I do not admit this. They have certainly not done so by consent, by admission or by acknowledgment of any sort. The reverse of this, upon the contrary, is true; for they are here, petitioners for a restoration of a right, of which they say they have been deprived by your act. The denial of this right on the part of Trinity Church proves nothing so long as those who are deprived of their rights resist the exclusive use of a power which they allege belongs in part to them. The case would be closed, perhaps, if the claims of Trinity Church were acquiesced in upon the other side—but so long as there is an Episcopalian in the city of New York, in communion with the Protestant Episcopal Church in the state of New York, claiming a franchise which is his by the chartered rights of those who made him a corporator, so long is the resistance of the rights of this one man an act of aggression.

Before 1814, Trinity Corporation acted in the light of a trustee for the common good of all Episcopalians. She gave lands and money with an unstinted hand. She acted as if the separate congregations of Episcopalians were her heirs. She gave a princely estate to St. Mark's Church and to St. George's Church, now two of the wealthiest congregations in the city of New York, and whose presence here as claimants for more of this estate, I should regard as evidence of great ingratitude towards Trinity, and which I can only excuse upon the ground that they are pleading for the rights of others, and not their own cause, for they need nothing, and I am well assured desire nothing for themselves. So of Grace Church, which has been presented here as playing those fantastic tricks before high Heaven which make the angels weep.

To recur again to the views of Col. Troup:—I am ready to acknowledge, with him and with other advocates of Trinity church, that the right to act in this case depends not so much upon any use or misuse of power, not so much upon what Trinity church has done or left undone, as upon the rights of the parties in interest. A Legislature can not change the grants made by donors to a religious or lay corporation. It can not impair the obligation imposed in the form of a contract, for, if common right did not forbid the exercise of such a power, the Constitution of the United States forbid it. In the case before us, we acknowledge both the force of the royal prerogative, in making the grants under king William and queen Anne, and the perpetuation of those grants in all their original force and meaning by the acts of the Legislature of this state. All that my colleague said upon the Dartmouth College case, during the hour and more which he took to consider that case, I regard as entirely inapplicable to the bill under consideration. We are claiming the observance of a charter, the fulfillment of a contract, the recognition of parties in that contract who have been deprived, by non-user or otherwise, of privileges which are theirs, in common with those who have had, for a long series of years, the sole use of these privileges.

The pamphlet of Col. Troup, the adverse reports of 1814, the argument of counsel, the debates here, all dwell upon what is represented as a quiet acquiescence in this sole use of power by Trinity church. There is neither law nor justice in such a position. There is no justice in it, because peaceful acquiescence in a wrong committed and persisted in by others should not be taken as evidence of approval or satisfaction. Many have declined to act for the sake of peace, many from indifference, and very many others because they hoped from year to year, and from time to time, that a more satifactory administration of the affairs of Trinity church would secure mutual peace and mutal good will. But I need not say to an American citizen that Episcopalians in the city of New York who have not claimed their right and exercised the franchise, have become necessarily deprived of such rights by any omission of this sort. The citizen who does not vote for twenty or forty years is none the less a citizen, and none the less entitled to his vote. I have the highest legal authority, also

for saying that *no length of time alone* ever establishes a right *gained by usurpation or under a void grant* in favor of one set of corporators against their co-corporators—unless there has been *a claim of right* by the latter, a denial of such right, *and an acquiescence of such denial* for at least a period of twenty years. This is settled law.—Accordingly where a second charter was granted to a municipal corporation, limiting the number of electors, *and excluding a portion who by the first charter was entitled to vote* (as in the present case), although elections had been holden under the second charter for the period of thirty-five years, the second charter was adjudged void. See *Rex v. Wynne*, 2 *Barnardiston*, 391. So in another case the right of a corporation under a charter was enforced, although there had been a *usage* to the contrary for upwards of one hundred and fifty years. *The King* v. *Jones, of Modern Reports*, 201. See also 7 *Modern*, 1901, where effects was given to a charter, after a usage to the contrary of sixty years.

In what relation, then, has Trinity church stood to this fund, which has been used so differently at different times, and regulated and disposed of upon one set of rules prior to 1814, and upon an entirely different set since that period. Before 1814, Trinity church gave away two hundred and ninety-nine lots of ground, in the next twenty-two years, only nineteen lots, and in the last twenty she has parted with none as gifts except some plats in one of her cemeteries. To this unequal mode of distribution, no doubt, may be traced much of the dissatisfaction of which we have heard, and which has finally ended in the presentation of petitions, some of them, be it remembered, from Corporators of Trinity church, begging for a change of the law of 1814. Clergy and laymen, petitioners at home and in public meetings, join in the prayer that this relation may be changed, and that the law of 1814 may be modified or repealed. Is it strange that those complaints have been heard? Who here or beyond the chamber has had the courage to say that true wisdom or sound policy has distinguished the administration of the fund in question? If we pause to compare the prosperity which has distinguished Trinity church and her chapels with some of the independent congregations, self-supporting or aided by their mother church, we shall be inclined to write conspicuously in letters of gold printed upon tablets of marble, in front of every altar, as a golden rule not only for every corporation, but for every intelligent and liberal minded citizen, those words of noble import, fit to be inscribed upon the tomb of every philanthropist, patriot and philosopher: "What I gave I have, what I kept I lost."

In this sense, Mr. Chairman, the trust of Trinity has not been wisely administered. I am told that it is no trust. I appeal to the testimony of the Rector of Trinity church to prove that it is a trust, and the highest of trusts. The excellent Dr. Berrian, in his address at the opening of Trinity chapel, on the 22d of April, said to his hearers in vindication of the expenditure upon this costly edifice, the expense of which was nearly a quarter of a million of dollars, that it was "*a great trust, which had been administered with an uprightness, liberality and wisdom, which, even in this country, has never been surpassed.*"—Upon this point gentlemen may very honestly differ. I have had occasion to refer to the testimony of a very distinguished layman, one of the Corporators and Vestrymen of Trinity church, to prove the very opposite of all this. In a moral sense, my colleague admits that this vast property, controlled by a standing committee, elected sometimes by less then fifty persons, is a trust.—I think it is a trust both in a moral and legal sense, but for my present purpose, remembering that it is property set apart for religious purposes, let it be considered in the latter light—for what is moral and not illegal, or what is just and equitable, I should suppose to fall within that golden rule which makes up a cardinal principle of practical Christianity. On this account it is that some of the voters by law ask of Trinity church justice for their Christian brethren of other Episcopal congregations. They do not desire to see those who are the "Ambassadors of the Cross, the Legatees of the skies," those "by whom the violated law speaks out its thunders," and "by whom, in strains as sweet as angels use, the Gospel whispers peace," engaged in a warfare so strange and unnatural. I speak to-night for this class of persons, not less than for those more prominent in urging action and justice at your hands. I speak for thousands of others in the city of New York and elsewhere, whose voices have not been heard in your halls or at public meetings, but who pray for peace on earth and good will among men—who plead with us as Paul plead with the men of Rome and Corinth, to be instrumental in avoiding those dissensions and strifes among those of the same household and faith, which often brings such deep and lasting disgrace upon the cause of religion. Those who have read the books which have been printed upon this subject, who have seen and heard the accusations made by letter and by word of mouth, who have been cognizant of the bad feeling engendered upon one side and the other, must not only feel pained at what has occurred, but heartily wish this controversy at an end.

Of course we must act, if we act at all, within the provisions of the charter, the Constitution and the laws; and this, Mr. Chairman, brings me to the consideration of the subject in its legal aspect.

I find that in 1697, under the reign of King William the Third, a monarch of beloved memory to those who cherish many of the prominent incidents of his life and reign, that for the purposes of "settling a ministry and raising a maintenance for them, in the city of New York, counties of Richmond, Westchester and Queens," one hundred pounds once in every year was to be assessed, levied, collected and paid to support a Protestant minister "to officiate and have the care of souls within "our Protestant church of England, established in our said city of New York." He was to be by our laws." Besides the one hundred pounds of

thus to be assessed and levied for this purpose, there was a royal grant and confirmation of a certain church and steeple built within the city, and a certain piece or parcel of ground thereunto adjoining."

"Scituate lyeing and beeing in or neere to a streete without the north gate of our said city commonly called and knowne by the name of the Broadway, conteining in breadth on the East end as the said streete of the Broadway rangeth Northward three hundred and tenn foot untill you come unto the land lately in the tenure and occupation of Thomas Lloyd Deed: and from thence towards the west in length by the said land untill you come unto Hudson's River and thence southward along Hudson's river three hundred and ninety-five foot all of English measure, and from thence by the line of our garden Eastward unto the place of the said street in the Broadway where first begunn, and that the said church together with the cemetry or churchyard thereunto adjoyning may *forever hereafter be dedicated and consecrated to the public worship and service of God according to the Rites and ceremonies of the protestant church of England as now established by our laws.*'

This is the preamble, which further recites that it shall be for the Rector and inhabitants in communion of the Protestant church of England as now established by our laws. Coming to the body of this, the first charter, we read what I regard to be the uses of the property according to the true intent and meaning of the donor. After again declaring the purposes of the gift to be "to promote, propagate and encourage all our loving subjects within our said province, in that reverend and Godly duty in worshipping and revering God according to the commendable rites and ceremonies of our Protestant church of England," it is added (in regard to the property above set forth):

"The same is hereby declared to be separated and dedecated to the service of God, and to be applyed therein *to the use and behalfe of the inhabitants from time to time inhabiting, and to inhabit, within our said City of New Yorke, in communion of our said Protestant Church of England as now established by our laws, and to no other use or purpose whatsoever, any statute law, custome, or usage to the contrary in any ways notwithstanding.* * * * * * And we have further thought fitt and, at the humble request of our said loving subjects, are graciously pleased to create and make him our said Right trusty and well beloved and Right Reverend Father in God Henry Lord Bishop of London and his successors, Rector of the said Parish, *together with* ALL *the inhabitants from time to time inhabiting, and to inhabit in our said city of New Yorke, and in communion of our aforesaid Protestant Church of England, as now established by our laws, a body corporate and Politiq*, with the powers and privileges hereinafter mentioned. And accordingly our Royall will and pleasure is, and of our speciall Grace certaine knowledge and meere motion We have ordained, constituted, and declared, and by these presents for us, our heirs and successors, do ordaine, constitute, and declare that he, the said Right trusty and well beloved Right Reverend Father in God, Henry, Lord Bishop of London, and his successors, and all such of our loving subjects as now are or hereafter shall be, admitted into the communion of aforesaid Protestant Church of England as now established by our laws, shall be from time to time and forever hereafter a body corporate and politique, in fact and name, by the name of *the Rector and Inhabitants of our said City of New York, in communion of our Protestant Church of England as now established by our laws.*"

Now sir, we have here three classes of persons—the Donor—being the King, afterwards by the enlargement of the gift, Queene Anne—the donees, being the persons holding the property, and the Beneficiaries. The USES are most clearly set forth, and the parties to be benefited are "*all the inhabitants from time to time inhabiting and to inhabit our said city of New York in communion of our Church of England.*" And this property is to be "separated and dedecated to the service of God forever," and "to no other use or purpose whatsoever," and all statute law, usage, customs to the contrary notwithstanding.

Now sir, what does this charter mean, if it is not capable of the simple, liberal and just construction put upon it in the words I have emphasized. I desire to consider all these laws as a unit, and to follow them up from 1697, through the acts of 1704, 1705, 1714, 1777, 1784 and 1788, down to the objectionable act of 1814, which I have spoken of at so much length. I desire to go back to the original charter, and step by step to follow up each royal grant and law to the separation of the colonies by the acknowledged Independence of the United States, and from 1775 to the present hour. I am willing to start with the legislative act of 1784, and just as willing to hinge that act upon every previous grant and law. Through each and every act, the inhabitants in communion with the Protestant Episcopal church in the city or state of New York are recognized. Thus the title of the act of 1784 reads:

"An act for granting sundry Privileges and Powers to the Rector and *Inhabitants of the city of New York*, of the Communion of the church of England, as by Law established. Passed the 27th of June, 1704."

The preamble says:

"*Whereas, the Inhabitants of the city of New York, of the Communion of the Church of England, as by Law established*, for some years past, *by voluntary contribution of themselves and others, favoring the Churche's Interest, have erected a Church within said City, for the service and worship of Almighty God called by the name of Trinity Church*," &c.

The first section also says:

"THAT FROM HENCEFORWARD, FOREVER HEREAFTER, *the Rector and Inhabitants of the said City of New York, in Communion of the Church of England, as by law established and their successors, be*, and shall be able and capable in the

law, for the maintenance and recovery of their estates, rights and privileges," &c.

The second section provides:

"*That the said Rector and Inhabitants* and their Successors by the same name from henceforward, forever, have, and shall have full power, good right, and lawful authority, to have, take, receive, acquire and purchase, and use, and enjoy Lands, Tenements, and Hereditaments, Goods and Chattels," &c.

The third section is imperative and says:

"That the said Church and Premises, be from henceforward forever set apart and separated for the Religious Uses aforesaid; and that the Patronage and Advowson of the said Church, and Right of Presentation (after the Death of the Present Rector, or upon next avoidance, and forever thereafter) shall belong and appertain to the Church Wardens, and Vestrymen of the said Church, *annually elected or to be elected by the Inhabitants aforesaid, in Communion as aforesaid, in Manner hereafter mentioned, and expressed.*"

The grant of Queen Anne is brief in words, but most bountiful in its bestowments, if we consider the value of what is left of the grant then made. In the preamble we read once again of the rector and inhabitants of the city of New York, in communion of the Church of England, as by law established, and to them, on the petition of the Captain General and Governor-in-Chief, Edward Viscount Cornbury, is made over for the same noble uses before described.

"All those our severall closes; peeces and parcells of land, meadows and pastures formerlly called the Duke's Farme, and the King's Farme, and now known by the name of the Queen's Farme, with all and singular ye fences, inclosares, improvements and appurtenances whatsoever thereunto belonging as the same are now in the occupation of and enjoyed by George Ryerse of the City of New York, yeoman, or by any former tenant, scituate, lying and being on the Island Manhattans in the City of New York aforesaid, and bounded on the East, partly by the Broadway, partly by the Common, and partly by the Swamp, and on the West by Hudson's River, and also all that our piece or parcell of ground, scituate and being on the south side of the churchyard of Trinity Church aforesaid, commonly called and known by the name of the Queen's Garden, fronting to the said Broadway on the East, and extending to low water marke upon Hudson River on the West, all which said premises are now lett at the yearly rent of thirty pounds, which reasonable request wee being willing to grant:

"Know ye that of our especial grace, certaine knowledge, and meer motion, we have given, granted, ratified and confirmed in and by these presents, for ourself, our heirs, and successors, we do give, grant, rattify and confirm *unto the said Rector and Inhabitants of the City of New York in communion of the Church of England as by law established and their successors all and singular the said farme lands, tenements and hereditaments.*"

Here is the foundation of that splendid property, the remnant of which is now worth more than a hundred times the value of the original grant. The act of 1714 is immaterial to the two charters already referred to. It bears, however, the distinguished name of "Bolingbroke," acting as the minister of the Queen, and it confirmed the rector and inhabitants before mentioned in all the possessions before conveyed, some of which, in the name of the Crown, had become involved in the webs of the law through the Court of Chancery. By royal favor they were set free. We next come to the law of 1784, which refers to the Charter of 1697, and the Colonial act of 1704, carefully preserving the closest relationship of the inhabitants of the city of New York, of the Protestant Church of England, some portions of which are too important to be omitted. One of these provisions saves the parties in interest all loss of right on account of non-user or mis-user on account of a change of civil government, as between the Crown and the Republic. The third and chief recital in this act reads as follows:

All persons professing themselves Members of the Episcopal Church, who shall either hold, occupy or enjoy a Pew or Seat in the said Church, AND SUCH OTHERS AS SHALL *in the* SAID *Church partake of the Holy Sacrament of the Lord's Supper, at least once in every year, being Inhabitants of the City and County of New York, shall be entitled* to ALL the *Rights, Privileges, Benefits and Emoluments, which in and by the said Charter and Law first above mentioned, are designed to be secured to the Inhabitants of the city of New York in Communion of the Church of England.*"

All Episcopalians occupying or enjoying a pew or seat in the Episcopal churches, and regularly paying to the support of said churches, and those partaking of the Holy Sacrament in said churches, and herein mentioned, with all the force and directness of which language is capable. Trinity Church singly is here nowhere named or implied, except as a part of the great whole of which she was the head and front. The fourth section of the act strengthens the first, and speaks of "immunities, emoluments, and privileges," not to Trinity Church, but to "the Episcopal Church, or that mode of religious worship, commonly called the Church of England."

Coming, finally, to the act of 1788, "The Rector and inhabitants of the city of New York, in communion of the Church of England" are preserved, to the letter, in the preamble, and the name is changed, in answer to the petition presented, so as to read, "the Rector and inhabitants of the city of New York, in communion of the Protestant Episcopal Church, in the State of New York," and this was the style and title until the memorable act of 1814.

It will be seen that the Legislature has passed four acts in reference to this subject, and we are now asked to pass a fifth. In the judgment of many the law of 1814 was an unconstitutional act. It became a law, not by the concurrence of

the Council of Revision, but by a tie vote in that revision. Had the Council been full, I am authorized to say, that the vote would have been, on the 25th of January, when the subject was under consideration, four against the act, and three in its favor. Smith Thompson, one of the Executive Council, afterwards one of the judges of the Supreme Court, was against the act, and complained that the question had been taken in his absence. Later in life, Chancellor Kent, who voted for the law, spoke of it as one of his youthful follies, and as an act which he most deeply regretted. The mature judgment of five of the seven gentlemen composing the Council of Revision was against the constitutionality and expediency and justice of the act of 1814; and of the remaining two, one had written a very able opinion against it. There was also a strong protest against the act at the time it passed, and if there has been a silent acquiescence in it from year to year, there has never been any concurrent sentiment in favor of the law.

The changes proposed in my bill may be amendable to the charge of novelty, but other changes have been made by law in this very charter now under debate. Many provisions of the charter of 1697 have become absolete.—Trinity Church no longer has the sole and only Episcopal churchyard in the city of New York. There is no longer a limitation of property to £5,000, with £10 to be paid for the clerk. We hear no more of the election of persons into the corporation. The assistant minister no longer holds his place for life. The resolution of a vestry *ipso facto*, deposes every rector and assistant who may be elected to the Episcopate, while the old charter read that the Rector shall and may nominate assistant ministers, but now Rectors and ministers are not only nominated by the vestry, but even the Rector's nomination is sometimes defeated. The law of 1704 spoke of communicants also as possessing certain powers; and, Mr. Chairman, with the example of all these changes, I shall be pardoned I hope for attempting one, which though it may have the touch of novelty in it, is nevertheless founded in justice and upon a hope of future peace.

My colleague has dwelt at much length upon what was meant by a parish. What it meant in the charter of 1697, as I can prove by admission and citation of facts, was the whole island of Manhattan. It meant more than a spire, the four walls of a church, and one congregation. If it did not, how comes it that Trinity has four churches, four congregations, and church property scattered all over the city—a churchyard in the lower part of the city and one of some acres in the middle of the island? How is it that there is a distance of more than three miles between Trinity church and Trinity chapel? Do those congregations make distinct *parishes* in the eyes of the law or in the spirit of the charter? No, Sir; every man knows that the charter of 1697 was meant to cover every Episcopalian in good standing on the whole island of Manhattan. My colleague says that "a parish is a unit all over the world." It is no more so than a church, the original meaning of which was a house of God, but the enlarged meaning of which is a collective body of Christians. We speak of the Presbyterian, the Baptist, the Episcopal, the Methodist or other churches. We read of the Catholic or universal church. The church of Ephesus or Antioch meant the followers of Christ in a particular city. In a broader and nobler sense the collective body of saints in heaven is called the Invisible church. Parish, too, has many interpretations. It has a political, or local meaning in Louisiana. In New England it has a religious signification. We speak of the the parish priest and the parish poor. In different states and countries it has a civil and religious signification, but in 1693, and in 1705, and later, it had a geographical or political meaning,* and covered all who, "of one faith and one substance bred," were of the church of England; and, Mr. Chairman, there seems to be a dignity, a justice and a charity in this interpretation, that ought to make it acceptable to all true Christian men. How is it possible for those who worship at the same altars, read the same prayers, make confession in the same words for the same sins, who plead for pardon, hope for mercy, and who mean to be governed by the same catholic spirit, thus to make war upon each other upon a question of franchise over atoms of dust less perishable than their own frail bodies!

Mr. Chairman: The subject is before the Senate. It has been here through long weeks and weary days. It has trespassed upon hours which should have been devoted to rest. All sides have been heard and fully heard; my colleague, for seven hours and a half consecutively this evening, and for three hours previously. It has attracted universal attention at the capitol, in the city of New York and in all parts of the state. History, if impartial, while it will recite much that is mentioned by my colleague, will also give a hearing to those who are held up to odium. Truth is not blind nor deaf. With eyes to see and ears to hear, what is omitted by my colleague or by myself will be revealed, and in that revelation which is divested of all prejudice and all passion. In introducing my substitute, I have been governed by a sincere desire to harmonize existing difficulties. I have no motive for action but the private and public good. The substitute is one of compromise; and if it can be received in the spirit in which it is offered, it will lead to that restoration of peace and good will which all true men must heartily desire. I invoke Senators, and I invoke all whose feelings have been enlisted in this controversy, for the inculcation of that spirit of Christian charity in disposing of this subject which covereth a multitude of sins—which hopeth all things, which endureth all things, which believeth all things, and which suffereth all things, and is kind. I invoke also for the hearts and judgments of men something of that inward good fellowship, which like the quality of mercy, is not strained, which "falleth as the gentle rain from heaven upon

* See Appendix D.

the place beneath," and which "blesseth him that gives and him that takes." I have been governed by a single motive in the part I have most unwillingly taken in the debate, and I leave the subject to the Senate, in the single hope that whatever is done may be well done, working neither injury to persons, nor resulting in evil to the cause of religion. Property, like riches, takes wings and flies away. A modern French philosopher calls it "robbery." Let me hope, sir, that while we are pictured as robbers by our enemies, because we seek to give to others that which is their own, the result of this night's deliberation may prove that some of us know both how to bear reproach against ourselves, while we are ready to maintain the rights of our fellow men. Let history but record impartially what we are now doing, and for one, as a Senator and a citizen, I am content to abide its verdict. Shielding myself behind the honored names of Gov. Tompkins, Spencer, Yates and Chief Justice Kent; and falling back upon the written opinion of Chancellor Lansing; looking to the language of the charters and the spirit of the laws, I shall hope that no act of mine, in connection with this bill, can inflict wrong upon any body of Christians or class of persons in the state. To differ with esteemed friends, whose counsels I have shared and whose friendships I have enjoyed, is, I confess, most painful; but in the path of duty, guided by a sense of what is right, or what seems to be right, there is no middle course. I have been charged among other worse things, with proposing that half of the vestry of Trinity church should be elected by the Episcopalians of the city at large. I impute the misstatement to the ignorance of the accuser. But not to add more, Mr. Chairman, I would forget and forgive all the groundless assaults which have fallen upon the much abused and little read proposition I have submitted. That cause is poor indeed, which originating in honorable purposes, sustained by truth, upheld by justice, and looking to peace and reconciliation among Christian men, has not strength enough to stand upon its own feet, and to meet and overcome bitterness of speech and error of judgment.

Mr. KELLY: Mr. Chairman! Before the question is taken I desire to say a few words upon this subject. It was my intention to have made some remarks upon the propositions before the Senate had time permitted me to do so; and even at this late hour I feel it my duty not to remain entirely silent. I regret exceedingly, Sir, that during the course and in the heat of this debate, unworthy motives should have been attributed either to the Committee of the Senate, or to the Vestry and the friends of Trinity Church.

The investigations made by the Committee have, in my view, been justified by the facts which they have elicited. They have discharged the duties entrusted to the well and faithfully, and deserve the thanks of the Senate for the labor they have bestowed upon the subject.

It is clear by the evidence before us, that the funds of Trinity Church have been administered by men of the strictest integrity. But it can be plainly seen that throughout their management, the great fault has been a desire to suffer the property to accumulate in their hands, in order that at a future time they might do great good in the cause of religion. In accordance with this policy we find that when Trinity built her magnificent edifice—for which I praise and honor her—she thought she could pay for her building out of her income, without parting with any portion of her property. She has also continued from year to year her princely gifts to other churches, and has sought to meet this demand upon her also, by her income alone. Now, although by the falling in of leases, in time, her income will reach an enormous sum,—probably $300,000—yet it has been inadequate at the present time to meet these charges upon it, and she has therefore fastened upon herself a large debt.

The gentlemen who are here seeking this legislation in regard to Trinity have not approved of this policy. They have believed Trinity might do more good with her large estates under wiser management. They are all true sons of the Church, and good Christians; and they have sought to bring Trinity to what they believe to be a sense of her duty. Perhaps if Trinity had pursued a different financial policy, they would never have been heard of here. They can have no personal motives to gratify, and can only be influenced by what they sincerely believe to be the good of the Church.

There is one idea, Sir, that I think has not been sufficiently enforced on the minds of Senators. Much has been said about the difference between a territorial parish and a spiritual parish; but it should be remembered that when this charter was issued and when these grants were made, a *territorial* parish was meant whenever in those instruments a parish was mentioned. At that time, the *parish* of Trinity included the whole of New York City. And let me ask here, if no revolution had taken place, and if there had been no severance from the mother-country, how would the property granted to Trinity have been used? Can there be a doubt that every Episcopal church would have participated in the fund? Trinity Church would still have remained *the* parish church. She would have had her fifty or more chapels, it is true; but they would all have been attached to Trinity as are her present chapels.

Immediately after the revolutionary war, no one foresaw at once the difficulties that must ensue on account of the separation between church and state. In the course of time parishes apparently independent of and disconnected from Trinity were formed; and when, prior to 1814, the difficulties between these parishes became so apparent as to require some attention at the hands of the state, the Legislature was applied to, and the act now complained of was passed. It is impossible for any emergency to arise in the body politic, but some power can be found sufficient to remedy it. The parties came to the Legislature of the state for relief; and I believe that the act of 1814 would have been constitutional

and just, if it had not divested these corporators of their rights. If it did divest them of rights to which they were entitled under the original charter and subsequent grants, it was unconstitutional and unjust.

Now the law of the Senator from the 6th (Mr. Brooks) seeks to give these rights, under certain restrictions, to all who were invested to them by the original charter. It is a compromise, and in my judgment a fair one, between the contesting parties. As such I shall support it, and as such I regard it as entitled to the favorable consideration of the Senate.

Mr. MADDEN: Mr. Chairman: This matter has been so fully discussed, that even were it not so late an hour, I should only occupy very briefly the time of the Senate. It is a subject of magnitude and importance upon which we are called to act, and it should not be passed on hurriedly, and without calm, full and motive consideration. I think that with the immense amount of business we have here upon our hands, it is not proper to decide this question at the present session of the Legislature. It has not been properly discussed by the Episcopalians in New York City, and throughout the state; as it certainly ought to be before being passed upon by us, even providing, that we have any right to legislate at all in the matter. It is true that we find here a spontaneous expression from the length and breadth of the state against the laying of any sacrilegious hand upon this church; but this expression, universal as it seems, gives but a faint conception of the opposition which would really spring up all over the state, were proper opportunity afforded for its display.

The question now before us, the bill of the Senator from the 6th (Mr. Brooks) has been so fully and so ably argued here, that but little is left for any person to add. Yet there is one point in relation to that substitute for the proposition of the special committee, which occurs to me, and which I desire to bring to the attention of the Senate. It is this. Every statement that has been made here and before the committee; every argument that has been adduced; every grant and law that has been quoted, shows conclusively that the whole of this property belongs either to the Episcopalians of Trinity parish, or to *all* the Episcopalians of New York City. Now both these parties claim to be the rightful owners of the property. These rival claimants may, if they please, compromise between themselves; but from whence do we derive the power to force a compromise upon them? If the estates belong to Trinity Corporation, they are hers entirely; hers to control and to use as she sees fit. It seems monstrous that we should assume to take hold of the property of the church by force, and say how it shall be distributed. It is the first stepping stone to that anti-republican doctrine, the interference of the state in the affairs of the church.

Holding these views, I regard the substitute of the Senator from the 6th (Mr. Brooks) as more objectionable, more monstrous, I may say, than even the original bill proposed by the special committee. If the estates of Trinity belong to the Episcopalians of the city of New York, they should have them all, and enjoy them without reserve. There can be no half-way measure of justice in the affairs. It is either one thing or the other. No court would decide the controversy as we are called upon to decide it. There is not a judicial tribunal in existence that would say one half of this property shall go to one claimant, and the other half shall be enjoyed by the other claimants. The law would decide, if called upon, simply to whom the property belongs; and would give it to the rightful owner, whether that owner was the congregation of Trinity Church, or the entire Episcopal inhabitants of the city.

Mr. Chairman, I can find no good reason in any of the arguments which have been used by the opponents of Trinity Church, why an appeal should not be made to the courts of law, to test the constitutionality of the law of 1814. Among those opponents are men of ample means and marked ability; and whether they cover the wealth of Trinity, or seek in good faith the restitution of what they believe to be their violated rights, I can see no good reason why they should not make their application to the courts rather than to the Legislature. Certainly if they have suffered wrong, the law has power to right them, and it can require no new act of legislation to restore to them all those privileges of which they claim to have been illegally deprived.

Sir, I feel it incumbent upon me to state, before closing my remarks, that I was much pained to listen to the opening remarks of the Senator from the 3d (Mr. Sickles). That honorable gentleman thought fit, after his eloquent and effective introduction, to charge the political party to which I am proud to belong, with the desire to lay sacrilegious hands upon this property of Trinity Church. For the honor and credit of the Republican party, Sir, I am bound to repudiate that assertion.

Mr. SICKLES: I said that the *leaders* of the party were the active men in the attack upon Trinity church.

Mr. MADDEN: I deny, Mr. Chairman, that even the leaders of the party are the foes of Trinity. Some self constituted leaders may strive to lead the party off into a crusade against this church, from personal or other motives; but I entirely deny their power to do so. I do not desire to charge the honorable Senator (Mr. Sickles) with having so shaped his remarks as to give them political effect in the future elections in the parish of Trinity, situated as it is, within his district; but I must say that I do not think the charge he has made against the republican party, comes with a good grace from a leading member of that organization that would have wrested the brightest jewel from the crown of the Queen of Spain, by force, provided she was unwilling to part with it for an equivalent. I ask him, Sir, if it becomes him, now opposed to spoliation in this instance, but so recently the active advocate of spoliation, to make

this sweeping charge against a large and honorable organization?

Mr. SICLKES: I hope that the vote to be taken on this bill in this place, will show that I have done great injustice to the party to which the honorable gentleman belongs.

Mr. MADDEN: I hope so too; but I can not conceal from myself the fact that there is danger and men against whom so groundless a charge is made may suffer their personal feelings to sway them so far as to induce them to be unwilling that the honorable Senator (Mr. Sickles) should win what he seems to regard a political victory by the defeat of this bill. It is on these grounds that I make these remarks; but I sincerely hope that no Senator will be influenced in the vote he casts by any stinging remarks or innuendoes cast out by political opponents in the course of this debate. I am simply rebuking what I consider to be an unjust aspersion upon the republicans of this State. I think that party is not an aggragrian party. I believe that it respects the rights of property; that it respects the laws of the country; and that is favor of man owning himself. Can the gentleman (Mr. Sickles) say as much for the party to which he belongs?

I have already denied, Mr. Chairman, that the leaders of the republican party are the foes of Trinity. I need only to point to facts to show the injustice of such a charge. If we look for a moment at those about this capitol as well as around this circle who are arrayed for or against this bill, we shall find on both sides, leaders of all the political organizations of the day. We shall see here an eminent American (Mr. Brooks) favoring the spoliation of the church, and there another distinguished gentleman of the same political faith (Mr. Hale) opposed to the partition of her estates. In like manner we find leading Democrats and leading Republicans on opposite sides in this controversy. It is no secret, Sir, that the Governor of the State, who all are proud to recognize as a leader of the Republican army, is one of the most uncompromising opponents of this scheme for the spoliation of Trinity church.

I repeat, Sir, that I make these comments upon the remarks of the honorable Senator (Mr. Sickles) only in justice to my own political friends and the members of the American organization; but I can not and do not believe that any Senator, on the votes he casts upon this most important bill, will be influenced in any degree by personal or political considerations. For myself, Sir, I am ready at once to close this debate, and vote upon the merits of the question.

MR. BRIGGS: Mr. Chairman—I move to amend the bill now before the Senate, by allowing one church warden and *twelve* vestrymen to be elected by Trinity parish, and one church warden and *eight* vestrymen by the parishes in the city of New York outside of Trinity.

I propose this amendment because I deem it but just to give the controlling influence in the vestry to Trinity herself.

The amendment was lost by a vote of 8 to 14.

The chairman then declared the question to be on the substitute offered by the Senator from the 6th (Mr. Brooks), for the bill presented by the special committee.

Mr. SICKLES: Do I not understand that the Senator is going to modify his bill in some respects, before the vote upon its adoption is taken?

Mr. BROOKS: The modification has been made already.

Mr. SICKLES: Pray what is the modification?

Mr. BROOKS: The amendment of section 3 of the bill, by the provision that the residue of the income and proceeds of the estates of Trinity shall be applied "to the purpose of the original grant," instead of "to the support and extension of religion and religious education in the city and state of New York," as the bill, as introduced, provided.

Mr. SICKLES: Why this appears to me no modification, but an entire alteration in the main principle of the bill. Pardon me, but it certainly seems like a pious fraud. Here we have been for days discussing one bill, and arguing on its merits, and when the vote is to be taken, we find another bill suddenly thrust before us.

Mr. BROOKS: It is the same bill. The Senator is mistaken.

Mr. SICKLES: It looks to me very different. It is certainly not the bill we have been discussing, for the main feature of that bill has been abandoned.

Mr. UPHAM: I thought the Senator did not understand what he had been talking about.

Mr. SICKLES: The Senator from the 28th (Mr. Upham), can scarcely be admitted as a fair judge on that point, for the reason that he did not hear my argument. He has been absent from the Senate during the debate, his business being the mere mechanical one of walking in and recording his vote when required to do so.

The question upon the adoption of the substitute offered by Mr. Brooks, the same was adopted by ayes 18, nays 8.

On motion of Mr. Spencer, the committee of the whole then, at 1 1-2 o'clock in the morning, rose and reported the bill to the Senate, and recommended its passage.

In the Senate, the president put the question on agreeing with the committee's report, and ordering the bill to a third reading.

Mr. SICKLES: Mr. President—This question is now out of the committee of the whole, and is not therefore in a position to interfere with or obstruct any other business before the Senate, or further to consume our time. But it is very desirable that the vote should be taken at a time when the Senate is in a condition to form a correct judgment upon its merits, and not at the close of a long and wearying session, and at such an hour as this. It is also very desirable that there should be a full expression of the sentiments of the Senate, and it is well known that one Senator entertaining the same views of this question as I entertain, is unavoidably absent from his seat. I hope therefore that the

Senate will see the propriety of a postponement of further proceedings at this time, and I move, sir, to lay the motion to agree with the committee's report upon the table.

Mr. BROOKS: Oh, I hope that will not be agreed to.

Mr. MADDEN: Mr. President, I move the indefinite postponement of the subject.

Mr. SICKLES: The motion to lay the motion agreeing with the report takes precedent of that.

Mr. UPHAM: Mr. President I can see no good reason for any further postponement of this question. There are thirty Senators here now, and I should think that was quite enough. It's enough to satisfy me, at least. There is no knowing when Mr. Hale will be here. At all events he will not be here tomorrow, and then we shall have the same excuse over again. I think we have spent enough time over it already, and I am anxious to get it out of the way.

Mr. SICKLES: I would inform the Senator from the 28th (Mr. Upham), that Mr. Hale will be here tomorrow. He has telegraphed me to that effect. Indecent haste under such circumstances is inexcusable.

Mr. SPENCER: There is no haste about it.—I hope the motion to lay on the table will be voted down.

The motion to lay on the table was then lost by ayes 12, nays 18, as follows:

AYES—Messrs Bellinger, Briggs, Huntington, Madden, Nichols, C. P. Smith, J. A. Smith, Sickles, Sweet, Towne, Usher, Wadsworth—12.

NOES—Messrs. Bradford, Brooks, Cuyler, Darling, Ferdon, Halsted, Harcourt, Hotchkiss, Kelly, Lee, Noxon, Paterson, Petty, Ramsey, Rider, A. M. Smith, Spencer, Upham—18.

The vote was then taken on Mr. Madden's motion to postpone indefinitely, and the same was lost, by ayes 14, nays 17, as follows:

AYES—Messrs. Bellinger, Bradford, Briggs, Cuyler Huntington, Madden, Nichols, C. P. Smith, J. A. Smith, Sickles, Sweet, Towne, Usher, Wadsworth—14.

NOES—Messrs. Brooks, Darling, Ferdon, Halsted, Harcourt, Hotchkiss, Kelly, Lee, Noxon, Paterson, Petty, Ramsey, Richardson, Rider, A. M. Smith, Spencer, Upham—17.

ABSENT—Mr. Hale (in favor of indefinite posponment)—1.

Mr. MADDEN moved that the Senate do now adjourn. The motion was lost by ayes 11, nays 19, as follows:

AYES—Messrs. Bradford, Briggs, Huntington, Madden, Nichols, Petty, J. A. Smith, Sickles, Towne, Usher and Wadsworth—11

NOES—Messrs. Bellinger, Brooks, Cuyler, Darling, Ferdon, Halsted, Harcourt, Hotchkiss, Kelly, Lee, Noxon, Patterson, Ramsey, Richardson, Rider, Smith, Spencer, Sweet and Upham—19.

Mr. BRIGGS moved his amendment proposed in committee of the whole, to give Trinity 12 vestrymen instead of 10. Lost.

The President then put the question upon agreeing to the report of the committee, and the same was agreed to, and the bill ordered to a third reading, by ayes 20, nays 11, as follows:

AYES—Messrs. Brooks, Cuyler, Darling, Ferdon, Halsted, Harcourt, Hotchkiss, Kelly, Lee, Noxon, Paterson, Petty, Ramsey, Richardson, Rider, A. M. Smith, C. P. Smith, Spencer, Towne, Upham—20.

NOES—Messrs. Bellinger, Bradford, Briggs, Huntington, Maddon, Nichols, J. A. Smith, Sickles, Sweet, Usher, Wadsworth—11.

Mr. MADDEN moved that the final vote on the passage of the bill be taken at 11 A. M., tomorrow. Lost.

Mr. MADDEN then moved to adjourn. Lost.

Mr. SPENCER: Mr. President. I move that the bill now have its third reading.

Mr. SICKLES: Where do you get your right for such action? The motion is not in order.—The rules forbid it; and unless you are willing to override the rules, you can not read the bill a third time now.

Mr. LEE: Then I move to suspend the rules.

Mr. MADDEN: I rise to a point of order.—By the 40th rule, no rule can be suspended unless on one day's previous notice, without unanimous consent; and I object to the motion.

Mr. UPHAM: I hope that somehow or other the vote will be taken to-night

Mr. SPENCER: The opponents of the bill agreed and bound themselves to allow the vote to be taken to-night.

Mr. SICKLES: The promise has been redeemed in every respect. The vote which was contemplated—the vote on the committee's report has been taken. It was never proposed by the friends of the bill, not supposed by its opponents, that the bill was to be pressed to a final passage to-night. No such agreement was in the bond.

Mr. MADDEN: It has not been my motive to delay the final action upon this question. I have been as anxious as any other Senator to have it disposed of and off our hands. But I do protest against this action of the majority as unjust, unparliamentary and oppressive.

Mr. UPHAM: No person accuses you of a desire to delay action on the bill; but why oppose that action now?

Mr. RAMSEY: Mr. President, I rise to a point of order. A resolution was adopted at a former meeting, to take the final vote to-night. This must be done unless that resolution is reconsidered.

Mr. SICKLES: The honorable Senator (Mr. Ramsey) is laboring under a misapprehension. No resolution was adopted on the subject. There was an understanding that the vote in the Committee should be taken this evening, but no suggestion to take the vote on the final passage of the bill was even made. Now, Mr President, while I have expressed, and desire again to express my obligations to the Senate for the personal courtesies extended to myself, during the course of this debate; yet I do not intend to concede that my side of the question has received any favors at the hands of this body. More time has been occupied during the debate by the other side, than by us.

Mr. BROOKS: Not so much by five hours.

Mr. SICKLES: Well, Sir, gentlemen may have kept a sufficiently accurate account to be able to calculate within an hour, or within five minutes; but I speak from the judgment I formed by reading the debate as reported in the public prints, during my absence in a distant city.

Mr. BROOKS: If the Senator will allow me to interrupt him I think that I can make a suggestion that may be acceptable to all parties. I desire to move that the final vote shall be taken on the bill at 12 to-morrow.

Mr. SICKLES: I, for one, should object to that while I am quite willing that you should fix some time for the final passage of this bill, I am not inclined to make any compromise of my right as one of the minority by binding myself down to any such arbitrary arrangement. I now move that the Senate adjourn. Lost.

Mr. SPENCER: I now move, Mr. President, that the bill have its third reading.

Mr. CUYLER'S name being called; he asked to be excused for voting. He said:

Mr. President! I have not had an opportunity in Committee of the Whole or in the Senate, of making some remarks which I desired to make, and to suggest an amendment to the bill now before us. I have on this account been somewhat unwilling to press this vote to-night. Still a great deal of time has been consumed over it, and we have a vast amount of very important business now before us. While I desired to have the opportunity to express my views upon one or two points, I yet shall not offer any further impediment, as far as I am concerned, to the final action of the Senate. I withdraw my request to be excused, and vote in the affirmative.

The motion of Mr. Spencer then prevailed, by Ayes 22, Nays 9—as follows:

AYES—Messrs. Bellinger, Brooks, Cuyler, Darling, Ferdon, Halsted, Harcourt, Hotchkiss, Kelly, Lee, Nicholas, Noxon, Patterson, Petty, Ramsey, Richardson, Rider, A. M. Smith, Spencer, Sweet, Towne, Upham—22.

NAYS—Messrs. Bradford, Briggs, Huntington, Madden, C. P. Smith, J. A. Smith, Sickles, Usher, Wadsworth—9.

Mr. SICKLES: I rise, Mr. President, to a question of order. I refer the Senate to the 16th rule, which says that "no bill shall be read a third time out of its regular order, *nor on the same day on which it is ordered to a third reading*, without a two-thirds vote.

The President ruled the point of order not well taken.

Mr. MADDEN pressed his point of order that a suspension of the rules was necessary in order to read the bill a third time, and that it required unanimous consent so to suspend.

The President decided that a suspension of the rules was not necessary.

The vote upon the final passage of the bill was then taken.

Mr. RICHARDSON'S name being called, he desired to say a word by way of reason for the votes he had given and now intended to give on this important question. The reluctance he had manifested in voting upon the motion to report the bill to the Senate, arose from the fact that there was one feature in the bill he did not approve. By the second and third sections the Legislature assumes to give directions to a religious corporation as to the management of its temporalities. Yet being so fully convinced of the injustice of the act of 1814, and believing that the confiscating and disfranchising policy conceived by Trinity in 1812 and consummated in 1814, to be manifestly wrong and unjust, he felt compelled by a sense of duty to vote as he had and shall, that in some manner the Legislature of the state might redeem itself from the disgraceful act of that year. Although this bill did not meet his views as well as that reported by the committee, yet it did in some measure make atonement for the act of 1814. He voted aye.

Mr. C. P. SMITH'S name having been called, he said he had been absent all day, having been delayed by a detention of the cars. The subject had been one of considerable anxiety to him. He had hoped that the bill, after being reported to the Senate, would have been laid aside until to-morrow, but inasmuch as his vote would apparently make no material difference in the result, he asked to be excused from voting.

The Senate refused to excuse Mr. Smith, and he voted in the affirmative.

The result was announced in favor of the passage of the bill by ayes 19, nays 12, as follows:

AYES—Messrs. Brooks, Cuyler, Darling, Ferdon, Halsted, Harcourt, Hotchkiss, Kelly, Lee, Noxon, Patterson, Petty, Ramsey, Richardson, Rider, A. M. Smith, C. P. Smith, Spencer, Upham—19.

NOES—Messrs. Bellinger, Bradford, Briggs, Huntington, Madden, Nichols, J. A. Smith, Sickles, Sweet, Towne, Usher, Wadsworth—12.

The Senate then, at 3 o'clock, A. M., adjourned.

In the Assembly, the Senate bill was referred to the standing committee on Charitable and Religious Societies, consisting of Messrs. Bell, Somerville, Rhodes, Mahen and Kimmey.

The committee held several meetings, and arguments were made against the bill by the Hon. S. B Ruggles, of New York, and Judge Parker of Albany; and in favor of the bill by Mr. Porter, of Albany. After devoting considerable time to the examination of the merits of the question, the committee were unable to come to a conclusion favorable to the bill, standing two for reporting it favorably to the House, and three against it. Those in favor of the bill were: Messrs. Bell and Somerville; those opposed to it were, Messrs. Rhodes, Mahen and Kimmey.

In the mean time, the opponents of Trinity church were not idle. With a strong and efficient lobby force they constantly plied the members of the House, and endeavored to persuade them into action upon the bill, notwithstanding the impracticability of bestowing any time upon the discussion of its merits, in consequence of the near approach of the close of the session, and the pressure of several important public measures yet unacted upon in the House. A number of leading political lobby men, who were supposed to understand the sentiments of members, were employed in making out tally lists of the votes, as they imagined they would be cast; and the friends of the Senate bill used every exertion in their power to complete the success of their effort to obtain possession of Trinity's estate.

There is no doubt that they were misled in a great measure by the unwillingness of members to say ought against taking up the bill, in consequence of their disinclination to offend the leading politicians who had taken it under their fostering care; although a large number of the representatives had resolved upon opposing it.—Be that as it may, it is certain that the enemies of Trinity were for some time confident of final success.

At length, on April 14th, Mr. BELL reported the bill from the committee for the consideration of the House, the majority of the committee refusing to recommend its passage.

Mr. SHERMAN moved to make the bill a special order for the next day at 4 P. M.; but the House, by an emphatic vote, refused, and the bill took its regular place on the general order.

On April 16th Mr. SHERMAN made an attempt to take the bill from its place on the general order and refer it to the first committee of the whole.

Mr. COX moved to lay the motion on the table, and the same was carried by a decisive vote.

On the 17th, the day prior to the final adjournment of the Legislature, Mr. B. OWEN, at the evening session, moved to order the Trinity church bill to a third reading at once, although it had never been discussed or considered in committee of the whole.

On motion of Mr. COX, the house again, by an emphatic vote, refused to take up the bill by laying Mr Owens' resolution on the table.

No further open attempt was made to force action upon the bill in the Assembly.

TO THE SENATORS

OF THE

SENATE OF THE STATE OF NEW YORK:

BEING

An *Examination* and *Exposure* of the "Report of the Select Committee to whom was referred the Report of Trinity Church made in 1855," made "in Senate, January 29th, 1857," and re-committed for further inquiry.

BY A

MEMBER OF THE PROTESTANT EPISCOPAL CHURCH.

February 12, 1857.

The Select Committee of the Senate of New York, to whom was referred *the Report of the Vestry of Trinity Church, in reply to the Resolutions of the Senate, passed April 13th*, 1855, have, through their Chairman, Hon. Mark Spencer, President *pro tem.* of the Senate, presented their Report, with voluminous *ex parte* testimony. That Report, with the testimony, is just published in the Senate Document No. 46, dated Jan. 29th, 1857.

The evident injustice evinced by the fact, that the testimony was partial and consequently unfair, both to Trinity Church and to the Commonwealth, prompted the Honorable Members of the Senate of New York to *recommit* the Report of the Select Committee by a decisive vote, implying, if not censure, disapprobation.

No cause that is good needs the crutches of ex parte state-

ment and false premises for its support. And the recoil produced by the explosion of the offended sense of decency and honor prevailing in the minds of Senators, must serve to counteract and subdue the prejudice which such unfairness is designed to inject into the public opinion.

Notwithstanding the unfinished condition of the question, and before the "testimony" was printed, editors of the Church and Secular newspapers have thought proper to endorse the statements, arguments and conclusions of the Report of the Select Committee, publishing through their columns, in editorials of less or greater length, animadverions the most severe against the Corporation of Trinity Church. And they threaten to manufacture adverse popular sentiment under color of comment on "the *latter portion of the Report* of the Senate Committee," "which," they say, "is much the more important," because "it touches not only Trinity Corporation, but the rights of all the Churchmen in the City, and the interests of the Church throughout the whole State."*

It might be good policy in Trinity Church to wait quietly until all has been said that can be said, before she shall attempt to reply, and this policy would be merely the prudence of the farmer who "hesitated to clear the paths about the house until it had stopped snowing."

Nevertheless, since the "latter portion of the Report of the Senate Committee" is confessedly of interest to "all the Churchmen in the City," it is a sufficient apology for one of them to claim a hearing from Honorable Senators and the Public and the Church, while he too examines "the latter portion of the Report of the Senate's Committee," together with some of the "testimony" published in Senate Document No. 46, now lying before him.

The foremost point is to examine the *historical* statements and quotations from the Royal Charter and the Acts of the Legislature, which the Select Committee report as being derived and "condensed from information embodied in the evidence."

* *Church Journal*, Feb. 4, 1857. See ib. Feb. 11, 1857.

1. The Committee begin by stating that

"In 1697 *the site* of the Parish Church at the head of Wall-street was given by the English Crown for "the use and behalf of the inhabitants from time to time inhabiting, and to inhabit, within our said City of New York, in communion of our said Protestant Church of England, as now established by our laws." *

But it is noticeable that the Committee do *not* state (what appears in the "evidence" before them) that "*the land which forms the present Churchyard or Burying Ground* of the Church,"† formerly know as a part of "the Queen's garden,"‡ was also given in the Charter from the English Crown "for a Cemetery or Churchyard of the Parish of Trinity Church," "to be for ever separated and dedicated to the service of God, and to be applied therein to the use and behalf of the inhabitants from time to time inhabiting and to inhabit within our said City of New York, in communion of our said Protestant Church of England, as now established by our laws, and *to no other use* or *purpose whatsoever*, any statute law, custom or usage to the contrary notwithstanding."§

This "condensing" of the "evidence" is quite significant when it is borne in mind that a portion of this very Graveyard (now filled with the dust of "the inhabitants of the City of New York") is coveted and contended for by certain persons, whom Trinity Church, under a sense of her pious duty as custodian of the ashes of the dead, has resisted, with cost of money and against offers of money. The controversy concerning the Graveyard is not yet settled and is now pending. It is even *notorious*, through current newspaper publications. The Select Committee could not be ignorant of the efforts to profane the "dedicated" ground, nor of the fidelity of Trinity Church in fulfilling her chartered obligations to maintain the sacredness of the Graveyard. And yet, notwithstanding the Charter recites that "the Parish Church and *Churchyard* of the Parish of Trinity Church is declared to be for ever separated and dedicated to the ser-

* Senate Document No. 46, page 14.
† L. Bradish's Testimony, Ans. 1st, page 91. ‡ Sen. Doc. No. 46.
§ Charter, 1867—page 7.

vice of God, and to be applied thereunto to the use and behalf of the inhabitants, &c., and to *no other use;* the Select Committee think proper to "condense" the testimony to that degree which allows them only to state that "*the Site of the Parish Church*" at the head of Wall-street was so given, separated and dedicated to a sacred use for ever.

And it is worthy of notice that the Select Committee's "Report" has been separately published in advance of the "evidence," so as to prejudice public opinion by dogmatic statement, without the accompaniment of the documents by which their Report might be verified.

II. The second paragraph of the Report of the Select Committee professes to recite the history of the *Incorporation of Trinity Church,* in the following words and with the foling punctuation :*

"The act of incorporation in the same year made the "corporation to consist of the rector, 'together with all the "inhabitants from time to time inhabiting and to inhabit our "said city of New York, and in communion of our aforesaid "Protestant Church of England, as now established by our "laws ;' and the legal title of the corporation was therefore "declared to be : 'The rector and inhabitants of our said "city of New York in communion of our Protestant Church of England, as now established by our laws.'"

Such is the entire and exact Report of the Select Committee, purporting to be condensed from "information embodied in the evidence," and professing to set forth a verbal quotation from the Charter of 1697. It professes, likewise, by implication, to publish *all that the said Charter contains* essential to the question of the "Incorporation."

That Charter of Trinity Church is not published in the Report and accompanying documents of the Select Committee.

And it grieves the writer to denounce the Committee's Report : 1st, For *omitting essential provisions of the Charter :* 2nd, For *reasoning from fragmentary quotations from the Charter :* 3rd, For *suppressing a word in that clause of the Charter which the Committee professes to quote verbally.*

* Senate Document No. 46, page 14.

Why that word was suppressed, and *why* the maimed clause, purporting to be the "Act of Incorporation," which particularly describes the Corporators of Trinity Church, was thus deliberately published in its garbled condition by the high authority of the Select Committee of the Senate of New York, shall be exposed before this examination shall be closed.

The reader will see, by simple inspection of the paragraph now under review, that the idea sought to be conveyed in that Report, is this: that "*all the inhabitants from time to time inhabiting and to inhabit the City of New York*, and in communion with the Protestant Church of England," were invested, by the charter of King William III. in 1697, with indefeasible and with equal rights, as Corporators of Trinity Church. By virtue, simply, of being inhabitants of the City of New York and of being in communion with the Protestant Church of England (or as now, in communion with the Protestant Episcopal Church in New York), any person, thus qualified, may, under *the said Charter*, claim a *right* to vote and to be voted for, in all Corporative elections. This is the very *point* and *pivot* of the controversy with Trinity Church.

The Select Committee affirm that "the Charter of 1697" secures the *rights* of a Corporator of Trinity Church to *every inhabitant of the City of New York* for all time to come, who is also *in communion with the Church of England* (or the Protestant Episcopal Church in New York); whether such person be or be not a member of the *parish* of Trinity Church: whether or not he be ecclesiastically subject to the *Rector* of Trinity Church: whether or not he belong to some other parish in the City of New York, and have no parochial relationship to either the Rector of Trinity Church or the Rector of any other Church. The qualifications of being "*an inhabitant of the City of New York*, and in *communion with the Church aforesaid*," constitute the *only* qualifications, under the *Charter* of 1697, to make a man a Corporator of Trinity Church.

This is the *assertion* of the Select Committee: this is the "evidence" of many of those whom the Committee summoned to testify; this is the *claim* argued for, in the Report; this is the *right* which (the Committee say) the Charter of

1697 confers ; and which *right* the act of the Legislature of New York, passed 25 of January, 1814, takes away from communicants of the Protestant Episcopal Church, residing in the City of New York. The very plea for revoking the Act of 1814 is grounded on the notion that the said Act "excludes"* from the Corporation of Trinity Church "the great body of Episcopalians of the City of New York," "deprives"† them "of important franchises"; "*divests* ‡ *them of their rights in valuable estates* granted and confirmed to them by legal and valid acts," and "*therefore* § that the said Act of 1814 is unconstitutional, unequal and unjust."

Surely, then, every *honest* mind must expect that the Select Committee of the Senate would quote, *correctly*, that clause of the Charter of 1697, which, it is claimed, confers those "rights" and "franchises," from the use and enjoyment of which the great body of Episcopalians in the City of New York are said to be "excluded," and of which they are "deprived" and "divested!" And moreover, every *candid* mind must demand that the Select Committee, fairly and truly, should recite any other clause or clauses in the Charter of 1697, which *expressly limit* the general and comprehensive franchise of "all the inhabitants of the City of New York" (if such clause or clauses there be). And the *ingenuous* citizen would, furthermore, require of his representatives in the Honorable Senate of the State, to recite any provisions in the Charter of 1697, which, by just *inference*, would limit, or in any way define and interpret the questionable claim to the estates of Trinity Church, so long administered by that Corporation under the sanction of the charter of the crown in England, confirmed to that Corporation by Acts of the Colonial Legislature, enforced by the laws of the State and settled by the decisions of Courts of Judicature. All this, one might anticipate, in view of the immense evil which a disturbance of a Christian and Eleemosynary foundation will cause to the peace of the community and the harmony of the Church.

But the Select Committee content themselves with a

* L. Bradish's Evidence. See Doc. No. 46, p. 95.
† Ib. p. 96. ‡ Ib. p. 96. § Ib. p. 90.

recital of a *fragment of only one clause in the Charter of* 1697, *that recital being inaccurate, through the suppression of a word, more or less important to the controversy.* The writer, therefore, proceeds to supply what is wanting, by quoting, in the first place, the clauses of the Charter, *omitted* in the Report of the Select Committee, which clauses bear upon the questions, "Who are the Corporators of Trinity Church?" and "How are Corporators of Trinity Church constituted?" under the Charter of 1697.

1 The Rector is the foremost and first named Corporator, under the Charter. "There shall be a Rector to have care of "the souls of the inhabitants of said parish, and a perpetual succession of Rectors there."

"And we further declare that the said Rector of the "parish of Trinity Church in communion of our Protestant "Church of England within our City of New York, shall and "may for ever hereafter have a common seal."

"And we are graciously pleased to constitute the Lord "Bishop of London the first Rector of said parish. And our "Royal will and pleasure is that he, the said Lord Bishop of "London and his successors, and all such of our loving subjects "as now are or hereafter shall be admitted into the commu-"nion of the aforesaid Protestant Church of England as now "established by our laws, shall be from time to time and for-"ever hereafter a body corporate and politique, in fact and "name, by the name of the Rector and inhabitants of our said "City of New York in communion of our Protestant Church "of England as now established by our laws. And that by "the same name, they and their successors shall and may "have perpetual succession, &c."

"And that the said Rector shall have the care of the souls "of the inhabitants within the said parish and in the commu-"nion of the said Protestant Church of England."

"And our Royal will and pleasure is, further, that the "patronage, advowson, donation, or presentation of and to the "said Rector and parish, after the decease of the said first "Rector, or the next avoidance thereof, shall appertain and "belong to and be hereby vested in the Church Wardens and "Vestrymen."

"And that all the succeeding Rectors of said Parish and "Parish Church (except the first Rector thereof hereby consti- "tuted) shall be presented, collated, instituted and inducted "as other Rectors, Persons and Vicars, respectively, are accus- "tomed to be."

"And we do give, grant, ratify and confirm unto the said "Rector and inhabitants of our said City of New York, in "communion of our Protestant Church of England as now "established by our laws, that the said Church and Cemetery "or Church-yard, situate, lying and being within our said City "of New York as aforesaid, shall be the sole and only Parish "Church and Church-yard of our said City of New York."

From these various citations from the Charter of 1697, it is plain that the Rector is the *Chief Corporator*, and so important to the integrity of the Corporation that the Lord Bishop of London was constituted Rector of Trinity Church by the Charter, before any other persons and as the head of the Parish, without whom there could be no "Parish."

And yet the reader will notice in the paragraph of the Select Committee's Report that the words, "the Rector," are printed in small type, without any marks of quotation, as if he were not an essential officer of the Corporation, but *only an appendage*, annexed to "all the inhabitants from time to time inhabiting and to inhabit our said City of New York."

And the inference which the Select Committee would have the reader to draw from their singular mode of stating and of *printing* the question, is, that "the legal title of the Corporation was *therefore* declared to be: "The rector and inhabitants of our said city of New York, in communion of our aforesaid Protestant Church of England," conveying thereby the idea that the Parish of Trinity Church was to be defined, as *coextensive with "the inhabitants of New York* and in *communion* of the Protestant Church of England;" without any necessary parochial connection with and acknowledgment of *the Rector* of Trinity Church. But the reverse of the Committee's construction appears in the Charter. For, in the Charter, the Rector is constituted *first* and *foremost*, and the other Corporators are described as "inhabitants of the *Parish;*" or as *those inhabitants* of the City of New York in

communion with the Protestant Church of England *who were under the parochial jurisdiction of the Rector of Trinity Church.*"

By making the Parish of Trinity Church the sole and only Parish of the City of New York, the Charter of 1697 constitutes the Rector of Trinity Church the sole and only Rector of New York. And in such case, agreeably to the laws and usages in Great Britain (except in special cases, made and provided for specially) the geographical limits of the Parish of Trinity Church would embrace the geographical limits of the City and be coincident with them.

But it is highly important to observe that the citizens of New York did not, by the Charter of 1697, derive their interest in the Corporation of Trinity Church by virtue of their "being inhabitants of the City and in communion with the Church of England," *but by virtue of their being under the jurisdiction ecclesiastical of the Rector of Trinity Church, inhabitants of the Parish, and in communion with the Church of England.*

This essential relationship with the Rector was established by the Charter of 1697, even when the Parish and the City were coextensive, and while Trinity was the only Parish Church in New York. *Much more,* is this personal relationship with the *Rector,* the mark and sign of a Corporator, when the City of New York is composed of many Parishes. For, if the Rectors and members of other Parishes may interfere in the parochial concerns of Trinity Church, while the Rector and members of Trinity Church may *not* intrude likewise into the concerns of those other Parishes, there would be an inequality of prerogative injurious to the Rector and members of Trinity Church, while giving supremacy to the Rectors and members of all other Parishes, enabling them by their greater numbers to override and rule the Corporation of Trinity Church. Or if, on the other hand, the Rectors and members of Parishes may, *mutually,* invade the Parishes to manage the affairs of one another, then all order will cease and confusion will abound, while the distinction of separate Parishes would be at once ridiculous, then obliterated and brought to nought. Besides, the Act of the Legislature for "incor-

porating religious societies," which *confines electors to their several Parishes*, would thereby be evaded, frustrated, and made void.

Nor, in either hypothesis, would the evil stop here. But Trinity Church would not only be prevented from choosing her own candidates to be the managers of her estate, but she would be deprived of sending her deputies to the Convention of the Diocese, and thus be utterly silenced in the Councils of the Church, while other Parishes would possess the double vote of the Trinity deputation and their own besides.

In short, to deny to Trinity Church the separate and independent management of her Corporate concerns by admitting the community of new Corporations to a voice in her affairs, is simply to extinguish Trinity Parish, to blot out her existence by a matricide, as full of folly as of wickedness. The same rule, therefore, still holds true, now as formerly, that the inhabitants of New York, who, *by the Charter of* 1697, *are described as members of the Corporation, are those "inhabitants over whom the Rector of Trinity Church has the care of souls, who are Ecclesiastically under the parochial jurisdiction of the Rector of Trinity Church, and who are communicants "inhabiting the Parish" of Trinity Church.*

But this view of the relationship of the Corporators, inhabitants of the city of New York, with the Rector and Parish of Trinity Church, is studiously, and it may be said, artfully, concealed in the printed Report of the Select Committee.

(2.) The second point to be noticed is, the manner in which, and persons by whom, Church Wardens and Vestrymen of Trinity Church are to be chosen, according to the provisions of the Charter of 1697.

The Report of the Select Committee, as well as the "evidence" of some of the persons testifying before the Committee, would fain persuade the reader, that "all the inhabitants of the *City* of New York, in communion of the Church, may, as Corporators, vote for Church Wardens and Vestrymen of Trinity Church, and also, that such inhabitants are themselves eligible to be chosen as managers of the estate, and may serve, if chosen, in the Vestry of Trinity Church." And this result

is precisely what seems to be the object of the adversaries of Trinity Church to procure.

But the "CHARTER" declares and prescribes that "there "shall be annually and once in every year forever, on the "Thursday in Easter-week, two Church Wardens and twenty "Vestrymen, duly elected by the majority of votes of *the in-*"*habitants of the* PARISH, in communion as aforesaid."

And in case of a vacancy, the "CHARTER" requires that "the Vestry or any eleven or more of them, shall and may elect "a fit person, *inhabitant* and householder in the *said Parish*, "to supply the same."

And the better to understand the meaning of the word "Parish," as employed at the date of the Charter, and as still in use and signification in the Ecclesiastical polity in England and in this country, the authorities define a "*Parish*" to be "*the charge of a particular Rector or Priest.*" No Act of Parliament has ever defined the boundaries of Parishes, but they have "been established as the circumstances of times, places, or persons happened to make them greater or lesser."*

And so careful is the "CHARTER" to maintain the independency of "the Parish," that, it furthermore ordains "that "the Church Wardens, for the time being, shall not, at any "time, dispose of any of the pews or places and pews in the "said Trinity Church, to any person, not *an inhabitant of* "*the said Parish.*"

The Charter is thus wisely solicitous to preserve the immunities of the parish from outside intrusion, and to protect the parishioners against any invasion upon their exclusive rights as Corporators. And the Select Committee would have had no grounds for their preposterous assertions, if they had not omitted *whole clauses* touching the questions "who are the Corporators of Trinity Church?" and "how are Corporators constituted, under the Charter of 1697?" To this point, therefore, we now ask the reader's attention.

(3.) The Select Committee affirm—that the Charter of 1697 "made the Corporation to consist of the rector, together with

* Burns' Ec. Law, 133; Jacob's Law Dict., Title Parish; Hook's Church Dictionary; Stanton's, do. title Parish.

all the inhabitants from time to time inhabiting, and to inhabit our said city of New York, and in communion of our aforesaid Protestant Church of England." The Committee have presented this clause of the Charter as *containing the whole answer* to the question of incorporation. They convey the idea to the reader, that the Charter is silent, except in this one clause, touching "who are the Corporators and how are they constituted." And the Committee's Report corresponds with the arguments, or (as they style them) "the evidence" of some of the persons testifying. Accordingly, they would have us believe that "all the inhabitants of the city of New York, in communion," &c., possess, under the Charter, a *vested* right as Corporators; that they need not have any title but this supposed *vested right;* that the right founded on election, or the submission to the form of election, is wholly ignored by the Select Committee, as though the Charter contained no such antecedent election, as a *condition precedent* to a claim to be a Corporator of Trinity Church. The writer, therefore, supplies the omission, by quoting the Charter, as follows: "We "do of our like special grace, certain knowledge, and mere "motion, give and grant unto the said Rector and inhabitants, "&c., full power and authority to *choose, nominate, and ap-* "*point so many others of our liege people as they shall think* "*fit, and shall be willing to accept the same, to be members* "*of the said Church and Corporation and body Politic;* "*and them into the same to admit.*"

Did the Select Committee not observe this provision of the Charter of 1697, for the *election* and *admission* of members of the Corporation? Did the witnesses, in their "evidence," not see these pregnant words? Was the withholding of this clause an accident? In the argument or "evidence" of the witnesses why was this clause ignored?

We answer boldly, because this part of the Charter utterly *dissipates* the *claim* of a *vested* right to be a Corporator. Because it confutes the argument that the Law of 1814 "*divests*" the inhabitants of New York of any right under the Charter of 1697. Because, the prerogative to "admit," implies the prerogative to *refuse* admission. Because none other but those persons inhabiting New York, and in commu-

nion, &c., at the date of the Charter, in 1697, were "vested" by the Charter with the rights of Corporators in Trinity Church. Because, finally, all fresh Corporators must (in addition to the qualifications of being parishioners and communicants) be "admitted" *by a vote of the Corporation.*

What shall the candid, honest, and true-hearted citizen say in sufficient condemnation of this unworthy attempt to hoodwink the community, and to deceive the members of the Church with the fancy that the Charter of 1697 "invests" *them* with franchises, rights, privileges, &c., which the Law of 1814 "deprives them of," "divests them of," "excludes them from," denies them ; and which Trinity Church is monopolizing without law and against law !

(4.) But this is not all. The writer proceeds to show a fault in the Report, worse than mere omission of important provisions in the Charter, bearing directly on the question in hand. *The Select Committee* have SUPPRESSED a word in their professed quotation from the Charter ! It is a little word. It is only a preposition. But small as it is, that word is in the Charter, and not recited in the Report which pretends to quote from the Charter. And it is a word quite useful, and even necessary for the just interpretation of the Charter itself, where it describes the qualifications of the Corporators of Trinity Church. The Charter says, "Rectors of the said Parish, to-"gether with all the inhabitants from time to time inhabiting, "and to inhabit." At this point the question arises, "what" inhabitants "are meant ?" or, in other words, "inhabitants of what domicil ?" And the answer is "the inhabitants of the PARISH," just spoken of. The sense is quite clear in this connection, to wit, "Rectors of said Parish, together with all the inhabitants from time to time inhabiting and to inhabit" said Parish.

Then follow two further qualifications of the Lay Corporators, to wit : They must be, 1st, "in our said city of New York," and 2nd, "in communion of our aforesaid Protestant Church of England."

The threefold qualification of Lay Corporators, accordingly, is prescribed in the Charter to be, persons inhabiting the Pa-

rish ; in New York ; and in communion with the Church of England.

But this interpretation of the Charter, so consonant with other provisions, and so definite in its description of the Corporators, is utterly repugnant to the pretended claims of persons *outside of the* PARISH. It is subversive of the arguments or "evidence" of many of the witnesses whom the Select Committee summoned before them. It is opposed to the whole drift and scope of the Committee's Report.

And how do the Committee meet the difficulty? By boldly SUPPRESSING the preposition "*in*," before the words "*our said City of New York ;*" substituting thereby, as the governing word, the verb "to inhabit ;" and by reciting this clause, thus mutilated, and so changed in sense as, by a forced construction, to suit their foregone conclusions ; and then *reporting this inaccurate clause as the true recital from the Charter, of the Qualifications of Corporators !*

The quotation of the Select Committee reads, persons "inhabiting and to inhabit our said City of New York."*

The writer feels pitiful, in following the Select Committee, to detect these inaccuracies. But as the task of detecting is a sorry employment, so the duty of exposing the Committee is a sad, but imperative obligation.

All that the writer chooses to trust himself to say, by way of denouncing this false quotation, is, that the absence of that word is a remarkable accident, or a culpable neglect in those persons who have, in this Report, stigmatized the Comptroller of Trinity Church, and who have accused the Corporation of Trinity Church, from the year 1813 till 1857, with a "course" of conduct consistent only "with deliberate and premeditated fraud !" Physician, heal thyself !

The writer has thus endeavored to show what has been omitted and what suppressed in the *second paragraph* of that portion of the Report of the Select Committee, which treats of the history of the Incorporation of Trinity Church.

III. Let us pass on, next, to the *third paragraph* of the same narration. The report states as follows :

* Sen. Doc. No. 46, p. 14.

"The act of the Colonial Legislature of 1704, confirms the essential powers of the Corporation by the same title, adding the words 'and their successors.'"

The Report of the Select Committee, in reciting the above act of 1704, conveys the idea that such an act exists, "confirming" and "adding" certain things; and these things are, Rector and inhabitants of the city of New York, and *their successors.* But why did not the Committee state the fact that the act of 1704 is *repealed?* Why attempt to uphold those Episcopalians who do not belong to the Corporation of Trinity Church, in their pretension to be Corporators, by naming the extinct act of 1704? The reason, on the face of the Report, is too plain to be hidden. It is evidently because the act of 1704 "confirms the title" The Rector and inhabitants of the City of New York, "and because the said act" adds the words "*and their successors.*"

It is curious to detect the littleness of the artifice of all this. *If* the Act of 1704 were in being, then the words in the Corporate title of Trinity Church in that act, to wit, "Rector "and inhabitants of the City of New York *and their succes-* "*sors*" would give color to the claim that the *present generation* of "inhabitants of the City of New York, in communion with the Protestant Episcopal Church," are vested with the rights of Corporators of Trinity Church.

A popular notion of "franchises," "rights," "privileges," "vested interests," &c., might thereby be fostered in the minds of "the great body of Episcopalians in the city of New York," who, under the delusive belief that they were "excluded," "deprived," "divested," and wronged by Trinity Church, would join in an assault upon Trinity Church, and would unite in procuring a repeal of the Act of the Legislature of 1814. Besides, it is an easy thing to persuade the cupidity of men that they have rights in property. And it is not difficult to rouse them to anger, if you can only inject the fancy that somebody is withholding from them their just rights. For no other reason, that the writer can imagine, do the Select Committee adduce "the Act of 1704," and recite its peculiar title; *omitting,* the while, to state the fact that *no such act has any being and force.*

It becomes necessary, therefore, to supply the neglect of the Select Committee, by citing the clause in the Act of the Legislature of the State of New York, "passed 17th April, 1784," wherein the Act of 1704 was annulled, as contrary to the new order of things brought about by the Revolution, and repugnant to the Constitution of the State.

"In order to remove all doubts which may arise in the "minds of any persons, with respect to the continuance, force, "and effect of a certain Act of the Legislature of this State "while a Colony, ... passed on the twenty-seventh day of June, "one thousand seven hundred and four, entitled, 'An Act for "granting sundry privileges and powers to the Rector and "inhabitants of the City of New York of the Communion of "the Church of England, as by Law established; Be it "therefore further enacted, by the authority aforesaid, that "the said Act' (with others enumerated by their respective "titles) is '*hereby declared to be fully and absolutely abro-*"*gated, abolished, annulled, repealed, and made void, as in-*"*consistent with, and repugnant to, the Constitution of this* "*State.*'" *

And notwithstanding the Select Committee adduce this very Act of 1784, in a following paragraph in their Report, yet they avoid noticing the above quoted words (so strong and so thorough that one would suppose they could not fail to attract attention), and the Select Committee venture to allege the abrogated Act of 1704, suggesting its peculiar title, as though that Act of 1704 were still potential! To *state* this conduct of the Select Committee is sufficient for all honest readers to condemn it.

IV. The Select Committee conclude their sketch of the history of the incorporation of Trinity Church, in these words: "The Legislature of New York, in 1784, confirmed all the original powers of the Corporation without altering the Corporate name, which, however, in 1788, was altered so as to substitute the 'Protestant Episcopal Church in the State of New York' for the 'Protestant Church of England.' And no further legislative action took effect until the year 1814." †

* Act of 1784. † Sen. Doc. No. 46, p. 14.

The writer would further add, that this Act of 1784, with the consent of Trinity Church, enlarged the constituency of the Corporation by admitting pewholders, and all persons occupying sittings, who regularly contributed to the support of the said Church: and such others as should, in said Church, partake of the Holy Sacrament of the Lord's Supper, statedly, being inhabitants of the City and County of New York, and professing themselves members of the Episcopal Church.

The Act of 1814, declaratory of the former Acts touching the Charter of Trinity Church, so far regulates the constituent members of the Corporation, as to conform with the "General Statute" (under which all the Episcopal Churches in the State of New York are governed), by the provision "That all male persons of full age, who, for the space of one year preceding any election shall have been members of the congregation," &c., shall be entitled to vote at the annual elections, for the Church Wardens, and Vestrymen of the said Corporation.*

The difference in the constituency of the parish by the Act of 1784 and the Act of 1814, consists in substituting "all male persons of full age" for "all persons;" and in requiring voters to have been members of the congregation for the space of one year. These persons, with the regular and stated communicants in the parish, constitute the members of the Corporation of Trinity Church.

V. Following the Select Committee's Report, it becomes proper, at this stage of our discussion, to inquire as briefly as possible into the history, and to state the recorded facts, respecting the Act of the Legislature, entitled "An Act to alter the name of the Corporation of Trinity Church in New York, and for other purposes," "passed January 25, 1814."

The above-named Act was passed on *the petition of the Vestry of Trinity Church*, in their corporate title of "the Rector and inhabitants of the City of New York, in communion of the Protestant Episcopal Church in the State of New York."

The petition of the Vestry shows, 1. That the Corpora-

* Compare the Act of 1784 with Act of 1814.

tion had been a body corporate by virtue of their Charter of 1697.

2. That the Charter contemplated Trinity Church as the sole and only Parish Church in the City of New York ; and that it continued so to be until the Revolution, and for a number of years afterwards.

3. That the Act of the Legislature in 1784 enlarged the number of Corporators (as noticed already) in the provision for admitting persons holding pews and sittings, &c.

4. That since the passing of said Act of 1784, the pew-holders, and the regular communicants of Trinity Church, and the Chapel have been admitted to vote at elections.

5. That furthermore, since the year 1784, owing to the rapid growth of the City of New York, the churchmen in the city have formed themselves into *distinct Corporations*, each having its peculiar endowments and place of worship, with Rectors and other officers of their own choice, independent of Trinity Church, and free from all control and interference of Trinity Church.

6. That, to all those Churches, whether formed with or without the concurrence of Trinity Church, she had made liberal donations, at the same time disclaiming any right or disposition to intermeddle with their internal concerns, and denying them their right to vote in the elections, or to regulate the affairs, of Trinity Church.

7. That, nevertheless, a few individuals belonging to such separate Corporations, tendered themselves at the Annual Election of the year 1812, and pretended to claim a right to vote for Church Wardens and Vestrymen of Trinity Church ; that their votes were rejected, and no measures had been taken by the rejected persons to establish the right so claimed.

8. That such attempts cannot fail to produce strife, and to foster pretensions both unreasonable and mischievous.

9. That in view of all these facts, and being especially convinced that, since the formation of many distinct Churches, the corporate name of Trinity Church, to wit :—"The Rector and inhabitants," &c., has become inapplicable, and ought to be changed ; that all doubts respecting the persons entitled

to vote for Church Wardens and Vestrymen of Trinity Church, ought to be finally obviated and settled.

10. That, furthermore, the law requiring certain religious corporations to exhibit an inventory of their estates, is attended with trouble and expense, and being once exhibited it would be useless to exhibit it again, unless the Corporation should have acquired further estates.

11. Therefore the petitioners pray that the honorable Legislature "will pass an Act for altering the name of their in-"corporation; and also to obviate and settle the questions "that might arise in consequence of incorporating other Epis-"copal congregations in the City of New York; and to do "away the necessity of such inventory and account being ex-"hibited more than once, unless upon the acquisition of addi-"tional property by religious corporations."

Such is a fair and true abstract of the petition of Trinity Church to the Legislature of the State of New York, setting forth the reasons for the same, and containing *all the motives and persuasions which Trinity Church thought fit to urge upon the Legislature to secure the passage of the act of* 1814.

This document was before the Select Committee of the Senate in 1857. And yet that Committee, in their Report, now before us, scarcely allude to this petition of Trinity Church; which, the reader will observe, is dignified in its utterance, clear in its statements, and cogent in its conclusions. But the Select Committee, *blind to this authentic document*, sets forth an entirely different paper—a paper *not addressed to the Legislature, not written until after the Legislature had passed the act of* 1814 *in both Houses, not emanating from the Corporation of Trinity Church, not even suggested by Trinity Church or its friends,* but (as the paper states on its face) suggested by another party; *a paper, the responsibility for which is assumed by him who signed it—by him only;* and not capable, one would think, of being tortured into an authoritative "pledge," "promise," or "representation," from either its writer or any other person or persons; being entitled "Remarks, &c.," and consisting of arguments, and signed by "Robt. Troup," under date of 6 Sept., 1813, in the city of New York.

This *private paper*, the Select Committee of the Senate have the hardihood to quote, as emanating from the Vestry of Trinity Church, and containing "representations," "promises," and pledges, which Trinity Church has falsified and violated, and as *setting forth the "inducements" to the Legislature to pass this act of* 1814.*

And on the conclusions drawn from their own reasoning on these false premises, the Select Committee charge upon the Wardens and the Vestrymen of Trinity Church in 1813–14, and upon the members of the Corporation since that time, dishonesty and meanness, and (if they had dared) "fraud," in procuring the act of 1814 under false pretences. But let us recite the Select Committee's words; and afterwards the writer will proceed to substantiate his accusations against the Committee's statements, arguments, and conclusions.

"Your Committee do not charge that, in obtaining the "law of 1814 under the representations employed for that "purpose, the Corporation were guilty of deliberate and pre-"meditated fraud, in setting forth inducements which they "never intended to realize. But thus much your Committee "feel bound to say, that *if* there *had* been any such fraudulent "intention to obtain power under that law, in order to defeat "the very ends which it proposed to secure, your Committee "cannot see that it would have been necessary for the Cor-"poration, in that case, to alter in any respect that which *has* "been their *actual course*, in order to carry out such fraudulent "intention with entire success."†

These insinuations are serious charges against honorable men. Emanating from the high station of Senators of New York, these imputations acquire a force to crush those upon whom they fall, unless those intended victims were sustained in the strength of compact integrity. But if the charges be false, no station is high enough to protect the authors of the slander from a rebounding stroke which shall hurl them amongst the ignoble herd of detractors and false accusers of their fellow-citizens.

The gentlemen against whom the accusations of the Select

* Sen. Doc. No. 46, p. 16, &c.

† Sen. Doc. No. 46, Report of Sel. Com. p. 26.

Committee are aimed, are the Vestry of Trinity Church, and especially the Committee of the Vestry, in 1813, who were appointed to apply to the Legislature. That Committee was composed of Richard Harrison, David M. Clarkson, Thomas Barrow, Robert Troup, Jacob Le Roy, Peter Augustus Jay, and Thomas L. Ogden. These are names of gentlemen whom the breath of slander has never sullied in their lifetime ; and it shall be the writer's pious tribute to their honored memory, to protect those names from slander, now that they are dead.

It has been shown to the reader that the reasons of the Vestry for applying to the Legislature for the act of 1814, were set forth in their "petition;" and that the Select Committee do not ground their charges against the Vestry on that petition. And furthermore, the "petition" of Trinity Church is the only extant authoritative document from which the Select Committee might derive matter on which to base any charges against the Vestry in the premises.

Accordingly, the Select Committee resort to the pamphlet of Robert Troup, before mentioned ; where we follow on upon the traces of their specious reasoning.

The Select Committee affirm that "as an inducement to the Legislature to pass this act of 1814, Col. Troup, who appears to have acted throughout as the authorized agent of Trinity Church in procuring its passage, declared before the Council of Revision, 'Judging from the past, it is morally certain,' &c. Now, in the first place, it is in proof before the Select Committee, that Col. Troup's pamphlet, from which the Select Committee make the quotations, was not written *until after the act of* 1814 *had passed both Houses of the Legislature.*

We say that the evidence of this fact was *before the Select Committee*, in the testimony of one of the witnesses whom they had summoned.

The Hon. L. Bradish, in his 8th answer, says, "From the journals of the Legislature and the Council of Revision, which I have examined, it appears that the petition of Trinity Church, for the act of 1814, was presented in the Senate of the State on the 17th March, 1813, a bill brought in, which

was *passed by that body on the 25th March*, 1813, *and by the Assembly on the 2d of April*, 1813."

In the "11th Answer" of the Hon. L. Bradish, he alludes to and quotes from the same Pamphlet of "Robert Troup," giving its date, of "*6th of September*, 1813."

Notwithstanding this evidence before the Select Committee they do not scruple to allege an argument, uttered in *September*, as proof of "an inducement to the Legislature" to pass an Act in the months of *March and April preceding!*

According to the logic of the Select Committee, the *inducement* for the Act of the two Houses *did not exist until five or six months after the two Houses had passed the Act!* And, furthermore, the Pamphlet of Judge Troup is itself a confutation of the allegation of the Select Committee, both in the Title and in the first sentence. The title of the Pamphlet is "REMARKS on the Bill, entitled, An Act to alter the name of the Corporation of Trinity Church, and for other purposes." And the *first sentence* of the Pamphlet is this: "*The Bill was popular in both Houses of the Legislature, and it passed by large majorities.*"

If the Select Committee of the Senate did really examine the document from which they quote, sentence after sentence, in their Report, a more glaring and scandalous misstatement could not confound them. And yet the falsehood runs throughout this Report, wherein the Remarks of Judge Troup, uttered after the passage of the Act of 1814, are alleged as "inducements" to said Act.

In pity and in charity the writer has sought to find an explanation in behalf of the Select Committee.

And the first hypothesis that occurs is this: that the Select Committee *did not write their Report;* it was composed for them, perhaps, by many journeymen hands; and hence the incompatibilities, inconsistencies, and sophistries manifest on its pages. But secondly, The Select Committee have *signed* the Report, and thereby have assumed the responsibility for its statements and its issues. Therefore, the plausible idea occurs, that the Select Committee did not mean to have the reader understand the term "the Legislature," to signify the "two Houses of Senate and Assembly," because

(as the State Constitution then stood) a "Council of Revision" existed to supervise the Acts which had passed both Houses with qualified power to veto such of said Acts as the majority of the Council disapproved. Therefore, inasmuch as Judge Troup's pamphlet was addressed to "the Council of Revision," and "the Council of Revision" was a *quasi* part of the "Legislature," it may be affirmed that the "Legislature" were "induced" to pass the Act of 1814 through Judge Troup's persuasive reasoning before "the Council of Revision." But this plea for the Special Committee will hardly serve, because the Council of Revision happened (as Hon. L. Bradish testifies in his 8th Answer before the Select Committee) to be "equally divided. No order was made thereon, and the bill became a law by lapse of time, without ever having received the express sanction of the executive department of the Government."*

Accordingly, it appears that after all, *only the two Houses of the Senate and Assembly* are the "Legislature" who passed upon the Act of 1814, *induced thereto by Judge Troup's pamphlet, which was not then written!"*

But, furthermore, this plea for the Select Committee is confuted out of their own mouths: for the Select Committee say in their Report, that "*Under these inducements*" (referring to a passage by them quoted from Judge Troup's pamphlet *immediately preceding*) "the *bill passed* BOTH HOUSES."† To casuists more adroit than honest, the writer must leave the Statement of the Select Committee's Report to find a plea to justify or even to extenuate such absurdities and untruths.

The writer calls the reader's notice next to the reasoning of the Select Committee, by which, with a sort of feline stealthiness, they approach their conclusion of a "fraud."

The Statement of the Select Committee now under review, furthermore affirms, that "Col. Troup *appears to have acted throughout* as the authorized agent of Trinity Church, in procuring the passage"‡ of the Law of 1814.

This very guarded and qualified statement of Col. Troup's

* Sen. Doc. 46, p. 95, and L. Bradish's Testimony. † Sen. Doc. No. 46, p. 7.
‡ Sen. Doc. 46, p. 16, 17.

" authorized agency," is soon magnified into an unqestionable " authorized" agency, but so quietly and cunningly as almost to escape observation. In the next reference to Col. Troup's pamphlet, as quoted by the Select Committee, " Col. Troup" disappears, and his place is supplied by a neuter pronoun. " *It was urged,* as ' morally certain,' that the Corporators, " &c."* " The frequent execution of this power," *it was* " *represented*" " would break down" the estate of Trinity " Church."† These quotations are cited from Col. Troup's pamphlet.

Then, further on, a page or two in the Select Committee's Report, the " neuter pronoun" is made to give place to the Vestry (while " Col. Troup" is introduced in a parenthesis, as a subordinate). " The increase of population in the City of New York, *it was urged by the Vestry,* through Col .Troup," made it " morally certain" that Trinity would,‡ &c. Again " The new policy of Trinity Corporation has therefore disappointed the *authoritative representation* of Colonel Troup."§

Then, in the very next paragraph, " Colonel Troup is dismissed, to appear on the stage no more, and Trinity Church is put in the forefront, as making " *pledges.*" " The Evidence," say the Select Committee, " shows that another evil " has arisen out of this failure on the part of *Trinity Church* " *to fulfil the pledges* under which she obtained the law of " 1814."‖

The reader, who has followed the artful statements of the Report of the Select Committee, will now discern the method by which the Committee has contrived to insinuate the charge of " fraud" on Trinity Church, in procuring the enactment of the law of 1814.

But the writer craves the reader's patience and asks him to restrain his expression of indignation until he further acquaints him with the utter contradiction of the statement that Judge Troup has spoken in his Pamphlet at the suggestion of the Corporation of Trinity Church.

In the *first paragraph* of Judge Troup's Pamphlet, he says, " Two members of that Honorable Body (meaning the

* Sen. Rep. 46, p. 18. † Ib. p. 18. ‡ Sen. Doc. 46, p. 20.
§ Sen. Doc. 46, p. 21. ‖ Ib. p. 22.

Council of Revision) were pleased to express a desire that the subscriber would furnish *them* with *his reasons* in support of the Bill."

But let us cite the whole paragraph, even at the cost of tautology.

" The Bill was popular in both Houses of the Legislature, and it passed by large majorities. Certain objections were, notwithstanding, reported against it in the Council of Revision ; and these remain to be acted upon at the next meeting of the Council. *Two members of that Honorable Body* were pleased to express a desire that the subscriber would furnish *them* with *his reasons* in support of the bill ; and *in compliance with this desire*, the following remarks are most respectfully submitted."*

With this authoritative statement of Judge Troup himself before their eyes, the writer, or any other honest man, finds it impossible to pardon the Select Committee for their attempt to identify " Trinity Church" with " Judge Troup," and to make his private opinions and pious hopes, their " promises" and " pledges."

And the writer, therefore, publishes it to the Church and to the world that the Select Committee of the Senate of the State of New York in 1857, *passing over the published Petition of the Vestry of Trinity Church, in which Petition and in that only, they authoritatively allege the reasons for the Law of* 1814, have, in their Report, set forth the private reasons of an advocate in the character of pledges authorized by a Corporation : and thereby, without any cause, they have held up the Vestry of Trinity before the Senate as responsible for opinions which they never expressed, and for promises which they never made, and for inducements which they did not suggest, and pledges which they never offered. And this iniquity of the Special Committee is conceived and born in the design to represent the Corporation of Trinity Church as obtaining the Law of 1814 under false pretences, insinuating the odious imputation of "fraud" upon the memories of the dead, and

* Remarks on Trinity Church Bill before the Council of Revision, by Robert Troup, Esq., one of the Vestrymen of Trinity Church, p. 1.

upon the character of the living gentlemen, who have composed the Vestry of Trinity Church since the year 1813.

VI. The writer furthermore arraigns the Report of the Select Committee before the bar of public opinion in the mercantile world.

The Report, before it attempts the positive charge of a "course" of fraudulent conduct on the Vestry of Trinity Church prepares the reader for said charge by a financial statement.

Trinity Church, in her Report of 1855 to the Legislature, in answer to their demands, presented an estimate of her estate derived from the value of her lots as appraised by the sworn Assessors of the city of New York, and from the value of the houses belonging to her tenants, as appraised by her own agents.

These agents were carpenters and masons, not Episcopalians, except one of them, nor in any way under the influence of Trinity Church. Furthermore, the Vestry employed a public Consulting Actuary to calculate the value of the Reversions, in order to reach "the present value" of her Estate.

The results of these appraisals and calculations, the Vestry reported to the Legislature in obedience to their requisition. The Special Committee to whom the Report of Trinity Church was referred, have chosen to dispute the accuracy of these Estimates of the property of Trinity Church. In doing so, the Special Committee include Bonds given to Trinity Church by the churches whom Trinity has endowed, notwithstanding these bonds are never enforced. They have also reckoned into the account the interest on these bonds, although the interest is never demanded, nor entered into her accounts. They have ignored the declaration of the Vestry, that "these bonds on the Churches are demanded in order to insure them, perpetually to be used for the sacred purposes to which the Churches are consecrated." But because, in *the event of any attempt to alienate those* Churches, Trinity may demand the repayment of the principal and interest of the bonds, the Select Committee have chosen to reckon them as part of the assets of the Corporation of Trinity.

The Select Committee have included, also, an interest of Trinity Church in St. John's Park; which the Vestry has

refused to sell, except for an exorbitant price, set upon it in order to discourage the attempt to buy it. In this way the Select Committee has reported the estate of Trinity Church to be "*five* times the amount," which the Report of 1855 estimated the estate. The object of the Select Committee, in this *exaggerated* calculation, was, plainly, to convict the Vestry of Trinity Church of falsehood, in *underrating* their property. Now, the point to which the writer would ask the attention of the honorable mercantile community is this: The calculation of the Select Committee, on page 12 of their Report, in Sen. Doc., No. 46, produces an aggregate sum of—

		$7,092,544 76
Deduct on account of Leases yet to run as estimated in the *Report* itself, (say the Select Committee),	$1,222,338 29	
Debt (of the Corporation of Trinity Church),	648,913 00	
		$1,871,251 29
Net total present value,		$5,221,293 47

The Committee exclaim: "More than five times the net total given in the Report."

The merchant will notice, however, that the sum to "*deduct* on account of leases yet to run" (with seeming but most delusive candor), is "estimated" *according to the estimate of Trinity Church in their "report" of* 1855.

But *this very estimate in the Report of* 1855 *is accused of being only one-fifth of the true sum*, in the opinion of the Select Committee.

Notwithstanding, *the Select Committee, in spite of their condemnation*, adopt this very diminished estimate of "the value of the leases yet to run," on the low percentage which they themselves condemn. The purpose is patent. It is to *increase*, by *this means*, the sum total of the estate of Trinity

Church so as to deceive the Senate and the community with the flourish of "more than *five* times the net value given in the Report." It is to prove their false charge by *false figures.*

The writer has taken the trouble to resort to an accountant and consulting actuary to ascertain, approximately, the amount of the false estimate of the Select Committee. And he finds it to reach the sum of $1,468,116,36, or nearly *one and a half millions of dollars!**

* The value of the lots, after deducting the estimated value of the buildings, was, by the Report $2,668,710
The value of the same, as reported by the Senate Committee, is 5,874,023

Increase $3,205,313

But the above lots are subject to certain leases, expiring at different periods, and consequently the present value of the lots is reduced by calculating the reversion of the above leases, to $1,446,371 71, and raising the value of the lots, the deduction thus made for running leases must likewise be increased in the same proportion.

Assuming that the advance in the above valuation, by the Senate Committee, had been made by a uniform percentage (which may not be the case), the value of the tenant interest would be raised by the same percentage to $2,690,454 65.

This result is probably as near to the actual value as can be reached, without going into a new and laborious calculation of each lot, and of each lease, by themselves. The accurate computation of each separate reversion might and would, no doubt, produce a different sum, but it could not be of any importance, and probably not vary over five per cent. one way or the other.

J. F. ENTZ,
Accountant and Consulting Actuary.

New York Life Ins. and Trust. Co.
February 9th, 1857.

Furthermore: Deducting from the Select Committee's sum total, the items which the Committee seem to be conscious are *wrongfully* introduced by them (in order to swell the difference between the aggregate of their own estimate and the estimate of the Vestry), to wit:—

St. John's Park	$400,000 00	
Church bonds and mortgages, with interest to Jan. 1, 1857.	571,952 89	
The *exaggerated* estimate of the Select Committee, is		$971,952 89
Add the Committee's mistake in their estimate of "the present value," as shown above by the calculations of Mr. Entz		$1,468,116 36
Produces an *over estimate* of the Select Committee, by *their own showing*, of a total of		$2,440,079 25

Surely, this is an unfortunate exposure of the Select Committee of the Honorable Senate of the State of New York, who are miserably striving to convict Trinity Church of financial errors! Again we apply to this Select Committee this sacred proverb, in all seriousness, "physician heal thyself!"

There is but one more point to which the writer would call attention. It touches the witnesses "whom the Select Committee relied on in framing their Report to the question, 'How many *free Churches* are there in New York,'" *not one of the witnesses mentioned* TRINITY CHURCH, THE NOBLEST FREE CHURCH OF ALL.

In view of the examination which the writer has been at pains to undertake, he would conclude with a sigh at the evidence, which the Report of the Select Committee unfolds, of the infirmity of sinful men, in their attempts to deceive themselves. But there is another feeling, also clamoring to be heard and expanded. It is the feeling of indignation against the Select Committee and their advisers; it is the sentiment of generous sympathy with Trinity Church; it is the uprising of outraged humanity, aroused to the conviction that its credulity has been abused, and its confidence in Senators impaired, and its trust in brethren betrayed.

While, therefore, the writer (with the Select Committee) condemns the former policy (now revoked) of the Vestry of Trinity Church (as evinced in the leases of pews in Trinity Chapel), in the attempt to prevent the enlargement of her constituent corporators—while he advises the widest admission of all who are duly qualified into the Corporation, and while he would cultivate and cherish intimate relationships of brotherhood with all fellow-churchmen, he would, at the same time, repel the brethren of other corporations from intermeddling with the corporate elections of Trinity Church, earnestly advocating the stability of the law, and pleading with the Legislature of New York to listen to no such representations as are set forth in the Report of the Select Committee. Let it be by public justice ordained, that *the Law of* 1814 *shall stand;* for the honor of the State; for the peace of the Church; for the good of posterity; and to the confusion of misguided zealots and covetous men.

The writer would now draw together the threads of his examination and exposure of the Select Committee's Report, by recapitulation. He indicts and denounces the Report of the Select Committee, as false and deluding, on these several counts :

1. It states only that "the site" of Trinity Church at the head of Wall street, is a vested and consecrated property, *omitting* to include the grave-yard and cemetery adjoining.

2. It *omits* to recite certain clauses of the Charter of 1697, necessary to the question touching the "admission" of Corporators into the Corporation of Trinity Church.

3. It *suppresses* an important word in the clause of the Charter of 1697, which it professes to quote *verbatim.*

4. It reasons inconclusively from its *falsified premises.*

5. It has adduced an act of the Colonial Legislature, as being potential, which is abrogated and annulled as unconstitutional.

6. It has appealed to prejudices and to covetousness, holding forth expectations to the inhabitants of New York, which have no good foundation.

7. It has neglected to state the true grounds on which Trinity Church applied for the Law of 1814.

8. It has substituted the arguments of an advocate, in the place of the reasons of the Corporation.

9. It has held up these arguments, so substituted, as inducements to the two Houses of the Legislature to pass the Law of 1814.

10. It has alleged those arguments as "inducements" to the said law, though the law was passed by the two Houses of the Legislature, months before the arguments were penned and published.

11. It has, on these fallacious representations, insinuated the odious charge of fraudulent conduct in the Vestries of Trinity Church, since 1813.

12. It has falsified figures in its own representation of the Estate of Trinity Church, by its method of estimating the "present value" of said estate.

13. It has committed all these wrongs on Trinity Church, on the Honorable Senate, on the Community, on Justice, Truth, and Honor—knowingly, and wilfully, and shamefully.

I have the duty of subscribing myself,

A Member of the Protestant Episcopal Church.

A LETTER

FROM

THE HON. D. D. BARNARD,

ADDRESSED TO

THE HON. ERASTUS BROOKS, SENATOR, &C.,

ON THE PROCEEDINGS AGAINST

TRINITY CHURCH,

NOW PENDING

IN THE SENATE OF THE STATE.

ALBANY:
VAN BENTHUYSEN, PRINTER, 407 BROADWAY.
1857.

LETTER, &c.

ALBANY, *March* 23, 1857.

The Hon. ERASTUS BROOKS, *Senator, &c.*

DEAR SIR—From the seclusion in which I am living, I have watched, with a good deal of interest and solicitude, the proceedings had within the last two years in the Body of which you are an honored member, and the movements and labors of a select committee of your number, in reference to the affairs and the property of Trinity Church, in the city of New-York. The final action of this committee has forced on my mind the conclusion, that there is some danger that a monstrous wrong and mischief may be perpetrated in the hurried and closing hours of the present Legislative Session. I hope it may not be thought too presuming in me that I should seek an occasion to offer to the members of the Legislature some suggestions and views on the general subject to which the doings of the select committee of the Senate relate. I have thought I might do this, without impropriety, in the form of a letter addressed to you; and I add my name, because if any responsibility attaches to such a com-

munication, I do not desire that any doubt should arise as to whom it should rest upon. I address my letter to you, because I know you, and entertain for you a very high respect, and a very strong personal regard. I do not know, nor have I understood, what your opinions may be, if, in the multiplicity of your official labors, you have already formed any, in regard to what the committee has done, or the action it now proposes to the Senate. What I do know is, that on all questions, whether of private right or of public justice, your views are apt to be sound, enlightened, and conservative. I have thought it probable, as most in accordance with your known habits and character, if you have not yet found time to enter on a thorough examination of the matters connected with the labors of the committee referred to, that you have kept your mind free and open to truth and to all just convictions on the subject. And the object I have in view in addressing you will be fully accomplished, if I shall be able to afford you or others any aid towards forming wise and just conclusions in the premises. I will add only in this connection, that I stand in no other relation to Trinity Church than that of an independent citizen, and Episcopalian, of the same State. I am not her counsel, or her adviser, and least of all, her partizan. I am not in her secrets, if she has any; and if, as some seem to suppose, she forms a centre for extreme opinions on Church questions, I am not of her party. I am not of any party in the Church, and do not intend to be. I am a churchman, and nothing above and nothing below that mark. I see in Trinity Church a stewardship of means, as I think, both legally and providentially provided, for the accomplishment of great good, in the future as in times past, to the cause of pure religion through the forms and ministrations of the Episcopal Church, and in promoting Christian education and Christian charities. I have not been accustomed to suppose that her affairs have always been managed with the utmost possible efficiency, or without some occasional errors. But I have a better opinion of her now, since I have read the testimony that has been elicited before the select committee, than ever before. Watched, as she always has been,

and always must be, with ten thousand jealous and longing eyes constantly upon her and her possessions, it would be difficult for her to go very far wrong, even if the high and blameless character, at all times, of those who have had the reponsible agency of her affairs, were less a guaranty for her than it is. And while I do not see how it is possible to take the property in her possession, or the management of it, out of her hands, without the grossest violation of all the securities which surround all private property and private rights, I do not find anything, even if this were possible, in the attitude towards this subject, of those (for many of whom personally I entertain the highest respect,) who propose to assume to themselves the property of Trinity Church and the responsibilities attached to it, calculated to impress me with the belief that the world, or any part of it, would be benefited by the change.

The first thing to which I wish to call your attention, is, that the matter before the Senate for its action, on the report of its select committee, is one strictly affecting private rights. The case is shortly and simply this. The parish of Trinity Church, in New-York, is an incorporated religious and eleemosynary body. It is a legal person, known in law by a legal name. It possesses, and claims to own, certain property. It exercises, and claims the right to exercise, exclusive control over this property, through its own officers, elected by its own corporators, members of the parish, whom alone it admits to the franchise of voting for such officers. Now certain persons, inhabitants of the city, outside of the parish of Trinity, and not members of it, are understood to set up, each for himself, individually, a claim to be part owner, legally and beneficially, of the property in the possession of Trinity Church, and to be legally entitled to the franchise of voting for the officers of that parish. The bill introduced into the Senate by its committee, has for its object to put these persons in possession of what they are understood to claim as their rights of property and franchise, or to give them facilities and advantages, with strong Legislative encouragement, for practicing and enforcing those rights. You will see, therefore, that the bill is one having relation strictly to private

rights, and nothing else. They are not the less private because a corporation and corporators are concerned. The dispute, so far as there really is anything to dispute about, concerns the property of a private corporation and the franchise of its corporators, to both which, certain individuals, not recognized by the corporation, set up a claim. If it was a case of disputed title to lands under deeds of conveyance, between natural persons, or of disputed inheritance among heirs under a will, that would not be more strictly a case of disputed private rights than this is.

Now, I think it is by no means impertinent to enquire how the Senate has come to be possessed of this case. I believe I am correct in saying, that up to the time of the committee bringing in the bill referred to, no petition or memorial of any sort or description whatever, from any person or persons whatever, had been presented to the Senate in relation to the subject. The Senate had not been asked to move in this matter of private rights The movement appeared to originate within that body itself, and so far as that body had official notice, without any prompting from without. But it is now apparent that the original movement, in April, 1855—calling on the vestry of Trinity Church for a Report, was an insidious one, and did not disclose the real design. It is quite manifest now that the real object was, to come, by slow and covert approaches, to the measure of private benefit now proposed by the committee. The same covert design was steadily pursued in the reference of the vestry's Report to a select committee, and in the authority procured for the sitting of that committee during the recess of the Senate, with the vague and roving commission "to examine into the matters connected" with that Report. The whole protracted proceeding has resulted just as it was no doubt originally intended it should result, in a bill to give private parties relief in a matter of private rights. If any parallel case can be found in the history of the legislation of this State, I am not aware of it. The practice of legislation all over this country, is, that private bills, and bills affecting private rights and interests, shall be introduced only on petition or memorial of the parties. Mem-

bers of a legislative body do not move in behalf of private claims and interests unless a case be made for them from without, any more than judges take the initiative of suits for private parties in their own courts. Such a practice is as unseemly and as dangerous in the one case as it would be in the other. I do not know what you or others may think of it, but I think the ordinary forms of legislation have been grossly misemployed in this case, and the dignity of the Senate abused, by the manner in which it has been drawn into this proceeding. And I think that any member of the Senate who has voluntarily made himself the instrument of private persons to carry forward their enterprise, while they were carefully concealing themselves from the public view, and from the body of which he is a member—at least until concealment was no longer an object—has greatly overstepped the bounds of duty and propriety belonging to his office. The dignity, the safety and the purity of legislation are put at hazard by a proceeding of this sort, and it well becomes the Senate, as the least that is due to its own honor, to look with extreme and high distrust on a measure of private import like this, introduced in so irregular and so unbecoming a manner.

I learn from the published proceedings of the Legislature, that the parties in interest in this measure, first presented themselves to the Senate in a memorial, on the 14th instant, the day after the bill from the Committee had been introduced. This was the first time the Senate had heard their voice in the matter in any way, except as the first Report of the committee showed that some of them had previously appeared as witnesses before the committee. A few days earlier these parties held a public meeting in New-York, and appointed a managing committee of their number, and that committee made a publication, setting forth "the precise nature and extent of the object of *their application* to the Legislature of the State for the repeal or amendment of the act of 1814." That application, however was not presented to the Legislature until the 14th instant. Yet it is not to be doubted that somebody outside of the Senate, hooded and masked from the public view, and from the eye of

the Senate, has had this case in hand, and has conducted and managed the whole proceedings from the first movement in the Senate in 1855. The call upon the vestry of Trinity Church for a Report; the referring of that Report to a committee; the composition of that committee; the clothing of the committee with such curiously comprehensive powers; the plan of operations in New-York to make use of a committee of the Senate of the State to get up materials for a Report intended to be very damaging to the character of the opposite party in this question and contest about private rights; the Report thus got up, and based on testimony supplied by outside agencies; the employment of certain newspapers to circulate in a condensed form the villifying matter of that Report; and finally the second Report of the committee, and the bill accompanying it; all this has been part of one concerted scheme of operations, set on foot and steadily pursued and managed, directed and controled by some person or persons outside of the Senate.

After the signal failure of the parties in interest in this matter before the Legislature ten years ago, when they went straight to their object by memorial, and in an open, direct and manly way, claiming the same rights of property and the same franchise as are claimed for them now, and asking, as is asked now, for the repeal or modification of the act of 1814, and when the whole subject was investigated on both sides in the most thorough manner, with surpassing ability, and with the aid of the most eminent counsel in the State; after that failure, it does not appear very clear how these parties in interest should have been induced to move in the matter again in any way. My impression is, that other persons—not Episcopalians, and caring nothing for the Episcopal church, unless it be to sow discord and confusion among its people, and if possible get rid of its power and conservative influence altogether—that other persons, having interests and ends of their own to serve, must have been engaged in this movement from the beginning. These persons, knowing that it had failed before when the case stood simply on its own merits, must have suggested for

the undertaking the kind of tactics now employed, fitted perhaps for other fields of enterprise, but not for this, and which, they no doubt thought promised a better and indeed the only chance of success. The plan was, as we now see plainly enough, to keep back the matter of this private claim, and to begin with getting up a preliminary proceeding, a movement which should seem to indicate that some evil or mischief of a public nature, not known to everybody, but requiring the hand of legislative reform, was to be developed: such a measure as any Senator might move in, without any special prompting, on the general grounds of patriotism and public duty. It was to be made at first to stand before the people, and before the Senate, on the ground of a measure contemplating the redress of some great public grievance or abuse. The original Resolutions of April, 1855, being introduced by a Senator without petition or memorial from any quarter, of necessity implied, if it was to be taken as a matter in any way fit for legislative initiation, that in the opinion of the mover there was some probable ground, in something Trinity Church had done, or failed to do, or perhaps in some unlooked for event or occurrence, to require the Legislature of the State as the guardian of the common weal, to interpose on its own motion with apropriate remedies. And these Resolutions were framed with such nice particularity, and they so hedged about and cornered up the answers required to be given, that the plain inference from them was, that the mover knew a great deal more than was safe yet to reveal, and that when the answers should come something quite astounding would be disclosed.

Now, however, that the object contemplated from the beginning has at last been reached, in a proposed measure of relief to private parties, resting, if resting any where, on a strict ground of personal and legal right, and nothing else, we see how much there was that was hollow and colorable merely, in the show and aspect of public consideration and public policy or duty, so adroitly thrown around the previous proceedings. It is now reduced to a positive demonstration that a harrassing

and inquisitorial proceeding towards Trinity Church has been carried forward for nearly two years, in which the authority of the Senate of this State has been employed, at the secret instigation, and under the secret direction, of persons outside of the Senate, and who, if outside of the Episcopal church also, had no possible claim to invoke that power in any form whatever. The parties in interest themselves were not entitled to invoke that power, except in the customary way of petition, they having nothing in the end to present but a naked claim to certain private rights of property and privilege, now and for an almost indefinite period, in the exclusive possession and use of other parties, who deny that this pretension has a shadow of legal merit or justice to rest upon.

But these parties are now before the Senate, though it must be all the while remembered, that they have only presented themselves there since the bill for their relief was brought in. I ought not to be surprised, perhaps, to find them in the attitude of petitioners for the measure thus introduced, but it is devoutly to be hoped that they have come into the case, giving no sanction whatever to the preliminary proceedings. You know, and almost everybody knows, that there exists in the Episcopal church throughout this country, some division of opinion. This diversity is well enough defined, by reference to what is popularly talked about as the High Church and the Low Church party. I am happy to say there is nothing in all this to break or disturb the general harmony and unity of the Church; and I am persuaded that, take the country together, not one Episcopalian in five hardly knows whether he is of the one party or the other. In the city of New-York, however, circumstances have given at times considerable sharpness to the lines of distinction. Trinity Church, willing or unwilling, has been set down as favoring and leading the High Church party, and being in possession of considerable estates, having several church edifices and several clergymen, her influence has necessarily been great. Where a notion prevails, with much or little foundation, that a party exists on one side

in any body of men, a party is sure to exist on the other. At any rate a strong and pretty numerous Low Church party, of a pretty marked character, is found, and has long existed, in New-York, and naturally enough, Trinity Church is the one great object against which its jealousy has been directed. Some of the purest men, most accomplished gentlemen and best Christians of that city, or the world, have been and are of this party. And I recognize among those who have lately appeared by their petition, and who are supporting and prosecuting the claim against Trinity Church, now before the Senate, several names well known to me, which I never pronounce or think of without very high respect and regard. But I have learned a great while ago that the judgment and the virtues of all men, however elevated and noble, naturally undergo a most fearful, and too often, a most damaging ordeal, when the spirit of party takes possession of them, whether it be in religion or politics, in Church or in State. I think the gentlemen to whom I refer are acting, in the matter now in hand, in some important respects, under a very great delusion. I think there never was a clearer or more demonstrable error than that of supposing that they have any legal or just claim whatever on the property of Trinity Church, or any right of control over it. But they think otherwise, and I have no right perhaps to be surprised, though I do most deeply regret, that their names are brought to stand connected, by relation backwards, with proceedings in this case with which it seems to me they could have had little to do, and which I must think every honorable and unbiassed judgment must condemn.

It is, as I suppose, due to the fact that there is a party in the Episcopal Chuch in New-York, known in common parlance as the Low Church party, taken in connection with the fact that Trinity Church is assumed, but untruly as I believe, to favor extreme High Church principles; it is due to this, and this alone, that any claim like that now before the Senate, is, or ever has been, seriously advanced. But while this party forms a very large majority of those who support this claim whenever it is set up, it is, itself, very far from being a unit in this regard. I doubt if

one half, or anything like it, of all the Episcopalians in New-York who may be regarded as favoring the views of this party on religious questions, either support or approve of the recent attacks on Trinity Church, or the efforts now making to strip her of her property. Certainly very large numbers of them do not. Still the spirit of party prevails and lends to the cause, so to call it, much of its energy. Nor is it any the less the spirit of party which acts in the matter, because some few persons may be found favoring the object, who are regarded as occupying very elevated seats in the school of High Church principles. Men of eminent piety often have exalted imaginations, and when schemes for employing the property of Trinity Church, formed outside of the vestry, have not met with all the encouragement within that body, no matter for what reason, that the projectors have believed they should have commanded, it is not to be wondered at if dissatisfactions have sprung up to some extent, as well among those who thought Trinity Church right in her church principles, as among those who thought her wrong; nor that some such persons should join hands with those who point them to a shorter road (not supposed to be a dishonest or wrong one) to the attaining of their pious objects, than that they had before trodden in vain. But the broad truth remains that the desire which has been felt in so many minds in New-York to strip Trinity Church of her power by stripping her of her property, has had its origin and perpetual foundation in party. This is bad enough, but so long as the matter rested with a party of the Episcopal Church, which was kept free from all outside intermeddling and influence, no danger was seriously to be apprehended. Unhappily, it has not been preserved, as it should have been, from this outside influence; and it is only too apparent, that since the introduction of this foreign element into this business, the whole character of the contest with Trinity Church has been changed. The present attack, only now assuming a shape in any way fit for legislative cognizance, was begun, as we have seen already, two years ago. It was deemed necessary to commence operations, by getting

up a popular prejudice and clamor against Trinity Church, which, setting in first strongly in New-York, should extend to the country, and finally come back in the form of public sentiment to work upon the Legislature. And it seems to have been a special point in the policy of those who have had the management of this affair, that those honest and respectable gentlemen, who believe no doubt sincerely, that, though not Parishioners, they have a legal claim to act as Corporators of Trinity Church, should not be suffered to appear as petitioners to the Legislature, or to seem to manifest, in any public way, an interest in the matter, until the case had been brought to a certain stage of preparedness for final action. This stage was at last reached in the presentation of the second Report of the Select Committee of the Senate.

I deeply regret to say, what truth and an imperative obligation to speak it boldly in a case like this, compel me to say, that I think both the Reports of the committee in this case, when they shall come to be understood in their true character, as they must be before a great while, cannot fail to meet with universal reprobation. They seriously compromit the character of the Senate. For the last one especially, I do not understand how any possible excuse or apology can be made. The testimony then before the committee, certainly had left not an inch of ground for the misconceptions,—if they were such—the exaggerations, injurious imputations, and the stale, but carefully-gathered gossip of the first Report to rest upon. Nobody would object that these Reports should have insisted, no matter how strongly, on what were deemed errors or mistakes in judgment on the part of the Vestry of Trinity Church. Nobody would feel surprised or offended that honest differences of opinion should have been found to exist about the best mode of administering the affairs of a great religious foundation. But here, charges were preferred, gross and palpable as mountains, however sometimes poorly disguised in the shape of wily insinuations and sly implications. The first Report was filled with them, and they are not corrected in the second Report, but on the contrary are reproduced and insisted on, in the face of the clearest and fullest testimony, and of all

fairness and all truth; charges against Trinity Church, her Vestry, her ministry, and all connected or associated with her in her affairs, of nothing short of falsehood, fraud, deceptive practice, oppression and corruption in the use of her accidental power and patronage, and of gross neglect of all sacred duty while hoarding her vast and ill-gotten wealth, and sitting down at her ease, a bloated and pampered proprietor of untold millions, of which she will not spare enough even to keep her own poor from starvation! I speak of the substance of things in these two Reports. No man can sit down to the perusal of them, having no previous knowledge of the case, and not going beyond them to look into the testimony connected with either, without rising from the reading with a vague but undoubting feeling that Trinity Church, which he will take to be the wealthiest and most powerful religious corporation, perhaps, in all the world, is a very monster of corruption and deformity. That, I take it, is exactly the impression intended to be produced. The managers of the machinery of this case, knew very well that where 500 persons would read these Reports, or, what would be enough for their purpose, the abstracts of them, published and scattered broad-cast in the newspapers, not ten, or five even, would ever see the testimony. And while such as I have described is the character of Trinity Church, as sketched to the conception of the casual reader in these Reports, I venture to say that no man of common understanding, before wholly uninformed on the subject, could go through the testimony in the case, taking the whole of it together, and passing by the Reports, without coming to the conclusion, after allowing for all errors of judgment, and feeling, perhaps, grave doubts about the wisdom in all instances of the measures and methods of administration, and of charitable distribution, which had been adopted, that it is doubtful if another religious foundation, as amply endowed as this, could be found in the world, where for a full century and a half together, and coming down to the present hour, there had been manifested so much of absolute purity, of entire disinterestedness, of unswerving integrity, of generous and humane consideration, and of uniform action, performed under a

high and noble sense of moral and religious obligation, as have characterised the Vestry of Trinity Church in the conduct of the affairs of that corporation. Such is the contrast between the testimony in this case, and the Reports of the Committee of the Senate, which profess to stand on the basis of that testimony.

But I must ask you to consider now, how the labors of this committee, in taking testimony and making reports founded upon it, look, when they are compared with the measure of legislative relief, which they have proposed to the Senate? I speak, of course, of their proposed repeal of the second section of the act of 1814. The action proposed is, to give legislative authority to all Episcopalians, members of other parishes in New-York, and entitled to vote in their own parishes, to vote for vestrymen of Trinity parish; and this is done on the ground that they are, and always have been, however for a time unjustly obstructed in the exercise of their right, legal corporators of Trinity Church, and on no other ground whatever. You cannot fail to see—nobody can fail to see who is willing to see the truth—that the question whether these persons are corporators or not, is purely a legal question. If corporators they should be allowed to vote; if not corporators they should not be allowed to vote. Now, will you, or will any sane man, tell me what the various matters contained in the reports of the committee, and purporting to be based on the testimony they have taken, have to do with this question?

Let me advert to some of these matters, not with minute particularity, but substantially, that we may see how much connection they have with the question which the Legislature is asked to decide.

One matter, which figures largely in the Reports, relates to the question of the amount and value of the property of Trinity Church. It is a gross impeachment of the honesty of the body of which you are a member, to suppose, as the Reports seem to assume, that the vote of one member of the Senate, upon the simple question whether A. B. is or is not a legal corporator of Trinity, could be influenced one way or the other by the con-

sideration that the property of the corporation is or is not very large. Whether it is $10,000, or $10,000,000, is a thing which no Senator, who has any decent regard either for himself or for the laws of the land, would take into account in deciding such a question.

Another point made in the reports relates to the comparatively small, and as the committee seem to think, gradually diminishing number and character of the corporators of Trinity Church. This is specially referred to in the second Report, and urged as a reason for increasing the number of corporators, and of course, by inference, as a reason why the Senate should declare that the members of other parishes in New-York, legal corporators or not, shall be corporators of the parish of Trinity. I do not think in my life I ever heard a more daring proposition. When the corporators of Trinity Church fail, it will be time enough for the State, but not through the Legislature, to look after the estate of that corporation; and when the question, and the only question submitted by the committee itself, in the bill they have brought in, on the disputed point under consideration is, whether certain persons are or are not legal corporators of Trinity Church, to urge the Senate to declare them to be so—to bring in, in truth, an army and mob of corporators to seize upon Trinity Church and her possessions—not on the ground that such is their legal right, but upon the consideration that it would be well, for economical and prudential reasons, to increase the number of corporators, surpasses anything I have yet heard of, in any official quarter in this country, in the spirit of bold agrarianism.

As for other matters of complaint and charge against the vestry of Trinity Church; that they have sought to conceal or falsify facts in relation to its property, or the value of it; that they have failed in the charitable and religious duties and obligations resting on them; that they have acted from corrupt, improper or unworthy motives in bestowing or withholding its bounties; that they have built and endowed no Free Churches; that they have built costly churches of their own to the neglect of the necessitous, and the general poor all over the city, and even of their own poor; that they have aimed improperly to restrict

the number of its corporators; that their mortgages on churches, and their stipends to clergymen, have been devised, and are used, as a means of breaking down all integrity and independent opinion in the Episcopal Church; as to all this, and whatever else of a kindred character is to be found in the reports of the committee, villifying and scandalising the vestry of Trinity Church—men whose character and standing in New-York will compare favorably with the highest and purest of all that that city numbers among her people, and whose abundant vindication is found in the universal respect which they command; as to all this sort of loathsome matter, of which these reports are full to nauseousness; what in the name of wonder has all this to do with the simple question, whether certain persons claiming that right, are or are not, legal corporators of Trinity Church, and entitled to vote in her elections? Has the committee of the Senate really supposed that the members of that body could be brought to decide so grave a question of private right, and of property, on such considerations as these? Yet somebody has thought so, else why have they been gathered up with so much care and at so much cost, and why are they found so carefully embodied, and repeated, and insisted on in these Reports?

If the committee, or if any others think that the affairs of Trinity Church and the property she holds, could be better administered, and disposed of, more advantageously for her good, and for the common good, by others, than by her own vestry; if they think a Low Church administration would be sure to put every thing exactly right; if they think that Trinity Church ought to endow and enrich a few churches with land, instead of lending a helping hand to a great many churches with money; if they think she should build and maintain poor churches for the poor, while the rich sit apart in lordly edifices; if they think instead of having the vestry of Trinity elected by the parishioners of Trinity, that it would be a just and proper measure, and a peaceful, orderly and edifying spectacle, to set a mob of 5,000 or 10,000 persons from fifty other parishes, to elect a vestry for her; if they hold such opinions, or any opinions like them, why

nobody that I know of has any desire to interrupt them in the free enjoyment or expression of them. Only do not let them imagine themselves, or attempt to make others believe, that these opinions can be employed to make weight in the balance of any man's judgment when he is brought to pronounce officially on the question whether certain persons, so claiming, are, or are not, legal corporators of Trinity Church.

I do not enter into any examination, in detail, of the matters set forth in the Reports of the committee as impeachments of Trinity Church. With what I have said already bearing on the general subject, I let all that pass. If it had been the object of the committee in the execution of their roving commission, to collect testimony to show that the corporation of Trinity Church had become extinct for want of corporators, or that she was employing her property for other purposes than those intended by the donor, or contrary to the policy of the State, their labors in hearing witnesses on these subjects, and in commenting on the matter gathered up, might have been deemed an acceptable and not wholly improper service to the State ; though, in all cases, if the State is to assert a claim to lapsed or confiscated property, or if a corporation is to be deprived of control over its funds for diverting them, or is to be dissolved for abuse of its franchises, the Attorney General, and the Courts, are the agents and powers proper to be employed for these objects, and not the Legislature. But there could have been no purpose of the kind here suggested on the part of the committee, in taking such testimony as is detailed in their first Report. They propose to the Senate no action to justify such a conclusion. Indeed, any suggestion of that sort on the basis of any testimony taken by them, would have been simply absurd. We are thrown back then, upon the measure of relief they have proposed in behalf of private parties, on a private claim, as affording justification and excuse, if any can be offered, for this proceeding of the committee. I have referred already, in general terms, to the principal matters presented in their Reports, as based on the relations of the witnesses examined by them, to show that they are wholly irrelevant and im-

pertinent to the question or claim of private rights brought before the Senate. On this point I only desire to add the general and sweeping declaration, that in all the voluminous testimony taken by them in New-York, and in whatever else is presented as evidence in their leading Report, there is not one sentence, or fragment of a sentence, or word, or syllable, which, as evidence, ought to have, or which can properly have, or which will be allowed to have in any honest, enlightened and just mind, called to act in the case in an official and responsible capacity, any the remotest bearing or weight in determining the question brought before the Senate by the committee for its decision, whether persons outside of Trinity parish, who now set up such a claim, are, or are not, legal corporators of Trinity and entitled to vote in her elections. I go further and say that no man, be he a Senator or a Judge, or in whatever position of authority he may be, who is called upon to pass on that question, has any right to approach the subject, or is fit to approach it, unless he has first discarded from his mind every possible impression or consideration calculated to affect his judgment, arising out of the main parts of this testimony, or out of the free charges, inferences and injurious implications based upon it, in which the committee have indulged. And in this comprehensive declaration I make no exception of that part of the proofs presented by the committee, the most extraordinary of all, where we find a most honorable and estimable gentleman, and a highly valued friend of my own, brought in to give his corporal oath to the history of Trinity Church, and the history of the Act of 1814, all existing in records and papers in possession of the committee, or just as accessible to them as to him, and to give his corporal oath also to *the law and the rights of parties* arising out of these records and papers. Of all the methods of determining grave questions of law, and settling disputed legal rights between contending parties, this one resorted to by the committee, of submitting them to the sworn declarations and opinions of a witness, is certainly the most comprehensive and summary ever yet heard of; but I think the committee is not likely to be honored by

having it adopted or followed as a precedent. The testimony received by the committee to prove that "dissatisfaction" existed in reference to the act of 1814, I set down in the same category with the rest. Acquiescence or non-acquiescence in a given *status* of rights is more a question of law than of fact. If, there being no impediments to action, no attempt is made in more than thirty years, to give legal effect to a naked and dormant claim of right, this, in law, for that period of time, would be acquiescence, and no amount of mere "dissatisfaction" would make it otherwise. As for the action that was taken in this case in 1846 and 1847, after a profound slumber and silence of thirty years, it is all of record and speaks for itself.

And this leads me now to say, that when in 1846 and 1847, the identical claim now brought forward by the committee, of a right on the part of other Episcopalians than those of the parish of Trinity, to participate in its elections, was presented to the Legislature, no testimony on the subject was taken or asked for. Nobody then deemed it necessary, or even proper, to encumber the case with such incongruous matter as has been introduced on the present occasion, or to attempt to win opinions for the claim upon any other grounds than those of its own essential and proper merits. Those presenting the claim at that time, were the parties in interest themselves, acting in their own name, and they held the claim in their own hands, and under their own control. They directed nothing to be done, and suffered nothing to be done, that was not characteristic of honorable men, for such they were. They employed eminent and honorable counsel to conduct their case from the beginning, who were as incapable as themselves of using or countenancing a resort to any base means or appliances whatever. Without the testimony of a single witness, there was not a fact, or circumstance, or inference, or principle, or argument, or consideration, which could then, or can now, be legitimately and rightfully employed in behalf of this claim, or pressed in any way into its service, which was not employed and used by them on that occasion to the fullest extent and in the amplest manner. The claim

now stands in behalf of much the same parties as then presented and urged it on the attention of the Legislature. Many of the same names are now before the Senate, asking its favorable consideration to the claim, presented there, however, for the first time only, since the bill of the committee came in. Up to that time, they had not appeared before the Senate, nor until a very short time previous had they appeared in any manner, (except that some of them had testified before the committee, as I suppose they had been summoned to do,) to give public countenance and support to those, whoever they may have been, who under cover of this claim, and by the aid of a Committee of the Senate, have been so long carrying on harrassing and hostile operations against Trinity Church. But they were willing, in 1846–7, to let their legal claim to a share in the property and franchises of Trinity Church, rest upon its proper merits; I must be allowed to hope they are willing to let it rest on the same merits now. On that occasion the claim was examined, under every circumstance favorable to the fullest and most deliberate consideration, by able Committees, one of the Senate, and another of the House, one in 1846, and the other in 1847. Both these Committees reported against the claim, the latter, a Committee on the judiciary, unanimously, and in both Houses the Reports were accepted and sanctioned. One member of the Committee of the Senate made a Minority Report in favor of the claim—an able paper, prepared, no doubt, by the eminent counsel of the claimants, and presenting the arguments in their favor in the strongest light in which the highest ingenuity and skill could place them. And I refer to this Minority Report the more particularly, because it was the immediate occasion of the most effectual and thorough silencing of this claim. It is ten years since it was laid to rest. The Report alluded to, gave occasion to a pamphlet published in review of it, written, as I understand, by a gentleman now no longer living, but who never had his superior as a lawyer in this State. This pamphlet is in existence, and you and others may recur to it. I do not hesitate to say, that its arguments are unanswerable. I cannot think that it leaves a loop to hang a doubt upon. The whole case in its legal aspects is presented. No disinterested and unprejudiced mind, and certainly no legal mind, can

read it, as it seems to me, without assenting to its conclusions It demonstrates, so that cavil itself, I should think, must be silenced, that the claim in the case is without legal foundation, and that the Legislature has no right or constitutional power to grant the relief asked for. Undoubtedly this review was the foundation of the unanimous rejection of the claim by the judiciary committee of the Assembly, in 1847, in a Report, itself a paper of great ability, and conclusive on the whole subject. After all this, I cannot well understand how the parties in interest in this claim, having literally nothing new in the way of legal merit or abstract justice to offer in support of it, and subject to no promptings from without, should ever have brought forward the claim again.

It is not my purpose to enter upon any extended view of the legal questions involved in this case, but I desire to present for your consideration a general and comprehensive statement merely, of the matter in its legal aspects. You will find, if your leisure shall allow you to look at them, the whole law of the case most clearly and ably presented in arguments already published, to some of which I have already adverted in this letter The most recent of these arguments, and a very admirable and conclusive one it is, is that of the counsel who appeared for Trinity Church before the committee of the Senate lately in this city.

The Senate is called upon in this case to consider and decide very difficult and very important matters. The general question in the case is, whether the parishioners of Trinity Church hold, as they have held and exercised for a century and a half, the franchise of voting in those elections exclusively of all others or whether other Episcopalians of New-York, parishioners of other legally incorporated churches, and not parishioners of Trinity Church, have also the legal right to vote in the elections of this parish.

Trinity Church is a religious corporation. She possesses a large estate devoted to pious uses. She is a parish in which the work of the Christian ministry is carried on as in other parishes, only on a much larger scale than in any other parish in this

country. She has four church edifices instead of one, in which religious services are performed by nine ministers. The legal custody, care and management of all her property and all her affairs, both temporal and spiritual, rest with certain legally constituted and elected officers; these are the rector, two wardens and twenty vestrymen. The wardens and vestrymen are elected annually; they call and induct the rector, and choose the assistant ministers. Up to the present time, the parishioners of Trinity Church have elected the wardens and vestrymen, just as the wardens and vestrymen of every other Episcopal church in the State are elected by its own parishioners. The parishioners of Trinity Church entitled to vote, are a little over three hundred. There are fifty other legally constituted parishes in New-York, and the parishioners of all these entitled to vote for parish officers, taken together, are probably not less than eight thousand. If these, or any number at all like it, are to be brought in to vote for the parish officers of Trinity Church, the consequence is apparent. The control and government of the parish of Trinity will be taken out of the hands of the parishioners of Trinity; the parishioners of other churches will elect her officers; the government of Trinity Church, the property, the sacred edifices and the ministers of Trinity Church, will all be in the hands and under the control of officers whose constituency will be, not the parishioners of Trinity, but the parishioners of other churches. The outside constituency thus proposed to be brought in, is a constituency antagonist to that of Trinity Church. It is so designed. The object is to take possession and control of the property of Trinity Church, and this is to be done by taking possession of the government of the corporation, involving of necessity the control, direction and management of all her affairs, internal and external, religious and charitable, spiritual and temporal. It will thus be seen that the matter now brought before the Senate, and which the Senate is asked to consider and decide, is one of the most important in all its relations and bearings ever presented before any public body, or tribunal, in this country for decision. On the face of it

it is a matter wholly unfit for any legislative body to touch or meddle with. None but the highest Judicial tribunals of the land, are in any manner qualified, or fit, to deliberate or adjudicate upon it. But I shall recur to this point again in the course of my remarks.

The rights of the parties to this controversy are to be determined by reference to certain public acts, and the construction and legal effect of those acts. These are :

1st. The Charter of Trinity Church, of 1697.

2d. The Colonial Act of 1704.

3d. The Grant of Queen Anne, of 1705.

4th. The Legislative Act of 1784.

5th. The Act of 1788.

6th. The Act of 1814.

The claim now set up is, that under the Charter and subsequent Acts, and up to the passing of the Act of 1814, all Episcopalians of New-York, though parishioners of separate and independent churches legally constituted, and not parishioners of Trinity Church, having the same qualifications as voters in their own parishes as the parishioners of Trinity Church are required to have as voters in that parish, were legal corporators of Trinity Church, and legally entitled to vote in the elections for wardens and vestrymen of that parish.

It is also claimed that the act of 1814, assumed to divest all such Episcopalians as are above described, of this franchise which was a vested right, and that the Act was for that reason unjust and unconstitutional. The repeal of that part of the Act of 1814 is therefore asked for, which purports to cut them off from this franchise.

In reference to this Act, it is admitted by the committee in their Report, that if it was a legislative contract with the Corporation of Trinity Church, and rights have become vested under it, the Legislature has no power to invalidate that contract, by repealing the Act. But, in proposing to repeal the second section of that act, they insist that nothing in that section "has any of the qualities of a contract." It is this second section alone of

the Act of 1814, which is now brought into this controversy. It is this section alone which cut off, if anything cut off, any vested franchise belonging to anybody. It is this section alone which is referred to when that Act is pronounced unconstitutional. And when, therefore, the committee propose to repeal this section of the Act, they propose to repeal all of that Act which they, or as far as I know, anybody else, have ever held to be unconstitutional. When, therefore, the committee mystify things by declaring that "inasmuch as they have come to the conclusion to introduce a bill to *amend* the act, and not to provide for its repeal, this question" [the question of the right and power of the State to invalidate its own contract,] "does not arise," it becomes us to take care that we and others are not misled by it. It happens that the second section of the Act, which they propose to repeal, is the only one, and the only part of the whole Act upon which this very question of contract does arise.

Now I propose to dispose of this part of the case first, and I shall do so in as few words as possible. And let it now be understood that when, for shortness, I speak of the Act of 1814, I mean the second section, and nothing else. The second section is the Act and the Act is the second section for all the purposes of this argument.

If the Act of 1814 was and is valid and constitutional, it is undisputed by any body, that, from that period at least, the Episcopalians at large in New-York, and not parishioners of Trinity Church, have not been, and are not, corporators of that Church, or legally entitled to vote in the elections of that parish. That Act declaring that the right of voting in such elections belonged to the parishioners of Trinity Church, declared also in express terms that "no other persons" should be entitled to that franchise.

But it is claimed that that Act was unconstitutional, as affecting the vested right to this franchise of the Episcopalians at large, held at that period. If such a right then existed, it existed under the contract previously made or confirmed by the State with the corporation. No doubt the point as to who should

and who should not be corporators, and entitled to vote at corporation elections, was a part, and an important part, of the original contract with Trinity Church It was just so important that it could not be changed by the State without the assent of the corporation. But let it be observed that a Charter makes a contract between the State and the corporation—not between the State and individual corporators. The contract is with the legal person, or entity, to which a name is given that it may be capable of contracting. The two parties to the contract are the State and the corporation, by its corporate name. And just as these parties were capable of entering into the original contract so are they capable, together, of altering or modifying that contract. I do not admit that any essential change whatever was made by the Act of 1814, as to who should and who should not be voters in the elections of Trinity Church. I hold it to be clearly demonstrable that none was made. But if there was, it is equally clear and demonstrable that it was such a change in the contract as the State and the corporation had a right to make. The Act of 1814 was passed at the special and formal request of the corporation, represented by its official organs and agents. They had a right to speak for the corporation. The State spoke for itself. The Act was the result; and if it produced the change attributed to it, this was as much a contract as the original charter, and just as binding on the respective parties to it. In the making of this contract the corporators, whoever they were, few or many, parishioners of Trinity Church only, or Episcopalians of New-York at large, were legally represented by the corporation, as the corporation was legally represented by its officers. In making a contract with a corporation, individual corporators are not and cannot be known. They are merged in the body corporate. The committee say the Act of 1814, "subverted vested rights." If it did it subverted such rights with the assent of the corporation, and, through the corporation, with the assent of the corporators. If it did, then such was the bargain. If the Episcopalians at large were corporators before that act, and entitled to vote as such in the corporation elec-

tions, then the officers of the corporation, regularly elected, and representing the corporation, represented them as members of the corporation, whether they voted in the elections or not. If they had a right to vote and did not vote, it was their own fault and neglect. If they had a right to vote, it did not depend on the will of the rector, wardens, and vestrymen, whether they should vote or not. The courts were open to them, and if the right to vote belonged to them, and they were hindered in its exercise, they should have enforced their right through the courts. Not having done this, and being corporators, if such they were, I repeat they were concluded by the acts of the corporation as much as if they had elected its officers by their own vote. The assent of all the corporators to the change in the charter or contract, if any change there was, is an inference of law from the act itself, and must so stand unless the contrary be made explicitly to appear by some authentic act of dissent on their part, at or near the time of the transaction, of a character to assert and vindicate, in a legal way, any personal rights affected by it. I state all this as a clear principle of law, needing no authority for its support.

Coming then to matters of fact; I suppose it is doubtful if there were twenty persons—perhaps not ten—in all New-York at the time of the passing of the act of 1814, who had any objection to make to it. There were extremely few at that time who had any notion whatever that Trinity Church had any corporators out of her own parish. This, as an idea having any prevalence, is comparatively a modern discovery. Two or three persons only had ever attempted to assert practically such a claim. The Act was passed with full deliberation, and with ample notice. It was acquiesced in at the time, and the idea that anybody was deceived into acquiescence, never broached by anybody for thirty years after the Act was passed, is too puerile for consideration. For thirty years, acquiescence, amounting to dumb silence, went on. For thirty years no act of dissent was manifested, nobody appeared in the courts, or before the Legislature, or anywhere else where such a claim could be made, to

assert that any rights had been lost under that Act. After thirty years, such a claim was set up, and at once most effectually silenced. Ten years more of acquiescence passed, and now again, after forty years and more, that Act is sought to be disturbed. And if, after that lapse of time, it could be disturbed on any of the pretences set up against it, it is impossible to see how anything in the way of property or rights amongst us, should ever be deemed to be settled, or in a condition of legal protection and repose.

It is clear to demonstration, as it seems to me, that the Act of 1814 was and is a constitutional and valid law. It was competent for the Legislature to pass it, as it did, at the official and formal request of the corporation of Trinity Church. The purpose for which it was asked was explicitly stated in their petition. They stated that the other Episcopal church corporations in the city did not "possess, or claim, any right for themselves or their members, to vote in the elections, or to regulate the affairs of Trinity Church; but that, nevertheless, a few individuals belonging to such separate corporations, have recently pretended to claim that right." They spoke of the attempt of "two or three" such persons to vote on a recent occasion; they said that such attempts could not fail "to produce strife and litigation, and to foster and keep alive pretensions of the most unreasonable nature, and of the most mischievous tendency;" and they asked for this Act in order that "all doubts respecting the persons entitled to vote for church wardens and vestrymen of Trinity Church should be finally obviated and settled." The Act was passed precisely as asked for, and precisely for the objects stated. It was passed in the precise form and manner to constitute a legislative contract, if ever there was one. As a contract, on the part of the corporation, it carried in law the assent of the corporators along with it; and nothing has ever appeared, or can be shown, to impeach that legal conclusion.

Such being the Act and its character, standing as a contract between the State and this private corporation—a contract to

settle and determine any doubts, if any had arisen, or should arise, as to who should and who should not be entitled to vote at the corporation elections—it is hardly conceivable that anybody who pretends to know anything of the foundations on which property and private rights rest in this country, should maintain that the Legislature has a right, without the assent and against the will of the corporation, to put an end to that contract by repealing or modifying the Act.

In general terms even the Committee of the Senate agree that "a Sovereign State has no power to pronounce its Acts so far invalid as to affect a right of property or its enjoyment which has become vested." And yet as a commentary on this text, they have presented to the Senate, a Bill by which they propose to bring in, from without the Parish of Trinity Church, a new voting constituency, 8000 strong, to overwhelm the corporation, and its own voting constituency of some 300 parishioners, in whose hands the present law and contract of the State place the exclusive right and power; the undisguised purpose being to give to this outside, and, so far as those who are pressing this measure can make it so, this antagonistic force, the power to impose officers and a government of its own, upon the Corporation and Parish of Trinity, which shall take possession and control of all its property, and assume the management of its affairs. And the Committee seem to think —at least they would have others believe—that there is nothing in all this "to affect a right of property or its enjoyment which has become vested"! They go so far as to assert that "by the proposed amendment the rights of the Corporation and its powers and franchises are not to be disturbed." Here is a corporation, a religious body, forming a Parish, which under a valid and existing law and contract of the State, of a very special character enjoys the right and franchise of providing itself with its own officers and government, through a voting constituency consisting exclusively of the people themselves who are to be the subjects of such government, members of the parish, and nobody else, and by this means of securing to itself the possession and

enjoyment, the control and management, of the estates with which it is endowed, and the orderly and peaceful direction and regulation of all its affairs ; and when it is proposed to place all that this Corporation and Parish possesses and enjoys—all its rights of self-government, and all its rights of property, and the property itself—under the absolute power and control of other parties, foreign to the parish, this solemn business is introduced with the declaration that "the rights of the Corporation, and its powers and franchises are not to be disturbed" by it!

I cannot find that the committee in their Report any where claim in terms, that the Act of 1814 was *void*. I believe they no where apply this term to the Act. This is probably not accidental. They call it "unjust," and, in one instance, "unconstitutional ;" they say it " subverted vested rights." They say also, that what they propose to do is to " *restore* the corporators who were *disfranchised* by the Act of 1814, and the rights of those who were corporators under the charter." The committee talk about this subject in legal language, and must be supposed to understand the terms they use. If the Act of 1814 was void *ab initio* from *want of constitutional power in the Legislature to pass it*, then of course it is void now, and never for a moment has had any validity. It did not *disfranchise* any body ; it did not take away the rights of any corporators. Those who were corporators before it passed, were equally corporators after it passed; have been corporators all the while, and are corporators now. There never has been a moment when they could not have asserted and maintained their rights in the courts. They may do so now. Even the lapse of forty years is no bar or impediment to their right. A *void* act of the Legislature gains no validity or force by lapse of time. If this act was *void*, no rights were lost by it, and none were gained by it, to anybody. It did not exclude those whom it assumed to exclude, and it did not give exclusive rights to those to whom it assumed to give exclusive rights. Both parties stand to-day, in every legal respect, precisely as they stood before 1814. Nothing is to be taken by any body, and

nothing is to be lost by any body, from lapse of time under this *void* act. The case presents no point of "adverse possession" to embarrass any corporator. There is nothing in the mere fact of a corporator neglecting to vote for forty years to disqualify him from exercising his right. Adverse possession and adverse rights might arise from lapse of time under the Act considered as a valid enactment, subject only to a legal dissent, at or near the time of passing it, by corporators claiming to be injured by it; but there can be no such thing under it considered as a *void* Act. It is manifest that the committee did not care to ask the Senate to repeal this Act, on the ground that in their opinion it was void, while it has not been so adjudged by any court, but on the contrary is insisted on as valid by parties who hold and exercise under it the most valuable and important rights and privileges. This would be to ask the Senate to exercise, not legislative but judicial power—a judicial power too the most transcendant ever exercised by our highest tribunals; to assume jurisdiction over parties, over private property, over private rights, over questions of fact and questions of law between litigant parties, over questions of the construction and validity of statutes, and finally to assume the right to summon a preceding Legislature of the State into its presence and pronounce its doings void for a violation of the constitution. The committee, it is presumed, did not suppose that any legislative body could be brought to exercise so unseemly and dangerous a power. They have contented themselves, therefore, with pronouncing the act of 1814 "unjust," and even "unconstitutional," but not *void*: for though "unconstitutional," they represent it as still having validity enough to *disfranchise* corporators whom they propose to *restore* to the rights *lost* by them under the act.

But the committee has had very awkward alternatives to deal with in this matter. They treat the Act of 1814 as if it had some sort of validity, and on that ground they ask for its repeal. The Legislature cannot be asked, and certainly could not undertake to pronounce it void, and on that ground to repeal it. That would be a judicial act, and not legislative; the

committee, therefore, stop just a breath short of pronouncing it void. But while they attribute a certain validity to the Act, they at the same time deny the only ground on which, upon the assumptions they make, its validity rests. They insist that the Act took from large numbers of corporators their vested rights. If it did so, then the only ground on which its validity can be maintained is, that it was in the nature of a contract, to which the corporation assented, and the corporators also, as a presumption of law. But the committee positively deny that it has "any of the qualities of a contract." And if it have not, then the Act was *void* in its inception, for its violation of vested rights. The committee hover between positions, not one of which is found safe to stand on. If the contract is admitted, the validity of the Act is admitted, and then it must needs be conceded that the Legislature has no constitutional power of repeal without the consent of the corporation; therefore the contract is denied. If the Act had no validity, then it did not divest any corporators of their rights, and no legislative interposition could be required to restore what was never lost; therefore, it is held to have some little, undefined validity. The act is not quite void, nor altogether valid. It is not so void as to leave the corporators, whom it assumed to disfranchise, corporators still; and yet it is so near void as to be unconstitutional. On the other hand, it is not valid in such a sense (the sense of a Contract,) as to be beyond the legislative power of repeal, and yet is valid enough to subvert vested rights!

But the question which lies at the foundation of this whole case is whether Episcopalians of New-York, not being parishioners of Trinity Church were legal corporators of Trinity Church, and entitled, with the other qualifications required, to vote at the Easter elections, under the original charter of 1697, and so continued down to 1814. A full and thorough examination of the Charter and all the public Acts bearing on this question, and of the whole body of the law applicable to the subject, and to the various points and considerations arising necessarily out of it, would be a labor fit to be undertaken only before some high

Judicial tribunal, having the patience, and the requisite legal ability, and legal habits of investigation, and whose proper province it should be to hear the whole case with a view to a solemn adjudication upon it. I shall enter here on no such extended discussion of it. I think a view of the question may be presented which, in comparatively few words, and avoiding legal technicalities and subtelties, shall comprehend the case, and afford an easy solution of whatever difficulty has ever honestly arisen about it.

It is evident, I think, that honest minds have been misled in this matter chiefly through the corporate name bestowed by the original Charter of Trinity Church upon the corporate body created by it, taken in connection with some of the recitals in that instrument. This name, and these recitals, have been dwelt upon, while other matters in the same instrument, quite as important, have received little attention.

At the time of granting the Charter, a church edifice had already been erected in New-York, though not yet completed, and those who had been engaged and interested in the erection had petitioned the Governor of the Province that this same *church edifice* "might be made *Parochial*." That edifice was designed for the accommodation of all the inhabitants of the city who were of the communion of the Church of England, then very few in number, and a charter of incorporation for the church, and such inhabitants, was asked for accordingly. The charter declared that this edifice, and certain grounds adjoining, should be "*the Parish Church and Churchyard of the Parish of Trinity Church*," within the city of New-York, and should be forever dedicated to the service of God, and applied for all time to the use and behalf of the inhabitants of the city who were of the Church of England. It declared that there should be a Rector, and a perpetual succession of Rectors, "to have the *care of souls of the inhabitants of the said Parish;*" and it proceeded to incorporate the Rector and inhabitants by the name of "the Rector and inhabitants of our said city of New-York in communion of our Protestant Church of England, as now established by our laws." It declared, moreover, that this church edifice and ground ad-

joining should be "*the sole and only Parish Church and Church Yard* of the city of New-York."

Now it cannot be doubted that it was in the contemplation of this Charter, that all the inhabitants of the city of New-York, not only those then inhabiting, but all who, in all time might inhabit the city, *answering to a certain description, and maintaining a certain relation*, then and now perfectly well understood in the Church of England, and in the Episcopal Church of this country, should be included in the benefits and privileges of this incorporation. They must be of the Church of England. This was one condition: and another, equally important and indispensible, was that they should be Parishioners of "the Parish of Trinity Church." This is the consideration which is too apt to be left out of the case. It was positively stipulated that there should be no other Parish in the city. This was to be "the sole and only Parish." Whether it was then thought that one small Parish Church, and one small Parish Churchyard, would be sufficient for all the Episcopal inhabitants of the city, (I shall use the term Episcopal for shortness,) for all time, or not, it is clear that it was thought one Parish would be enough. No Parish could be incorporated under the English Government, without a special charter; and the Government could grant no charter for another Parish in New-York, without the consent of Trinity Parish. This was the contract. But with the consent of this corporation, nobody can doubt that another Parish might have been incorporated within the city, at any time when it should have become apparent to all, that the city had outgrown the accommodation and convenience of a single Parish. No such exigency arose during the period of the British rule. Had, however, such an event happened, and another Parish been incorporated, of course all Episcopalians thus incorporated, or voluntarily joining themselves to the new Parish and Corporation, would cease to be members of the Parish and Corporation of Trinity Church, supposing them to have previously belonged to it. Nobody can doubt or dispute this. Nor does it follow, by any means, that all Episcopalians residing in New-York, though no other incorporated Parish existed there, were, or must necessarily be, Parishioners and Corporators of Trinity Church. An

instance occurred at an early period to show this. There was a Chapel in the Fort of the city, sometimes used as such and sometimes not, but which Gov. Hunter, in his time, caused to be put in good order, and where the Chaplain of the forces regularly performed divine service. Here it seems the Governor and some of the officers of his government were accustomed to attend service, and to receive the communion, instead of occupying their places in Trinity Church, as had been the common custom of the Governors and chief officers of the Government before. No doubt some dissatisfaction existed with the Rector, Mr. Vesey. Now, in 1714, at an election for Wardens and Vestrymen in Trinity Church, some disturbance was created by some of these officers and friends of the Governor, who had deserted Trinity Church as regular attendants and communicants, and gone to the Chapel in the Fort, presenting themselves as entitled to vote in the election. They ranged themselves with the opposition when a division of numbers was called for, and were promptly and very sharply rebuked by the Rector for their presumption. No special rejection of their vote was made or required, because the opposition, in the act of dividing, was found to be feeble and ineffectual; but there can be no doubt that the Rector, as the presiding officer, was prepared to reject their vote if that had become important.*

There needs, in truth, only one thing to be taken into view and kept steadily in mind, to solve any possible difficulty arising upon the language of the charter of Trinity Church. It was a Parish that was incorporated, and nothing else. It was the Parishioners of that Parish, together with the Rector, who were made corporators, and nobody else. It was expressly named as "the Parish of Trinity Church," and a Rector was appointed to it, who, with his successors, should have "*the care of souls of the inhabitants of that Parish.*" The "inhabitantsof the Parish," and "the inhabitants of the city," of the Episcopal communion, were identical and reciprocal terms; and this, not only because the Parish and city had then, as it has now, the same territorial breadth and boundaries, but because the Episcopal inhabitants of the city were expected to be, and required to be, without exception, Parishioners of the Parish of Trinity Church, and

*Address of the Friends of Gov. Hunter to the Bishop of London. Documentary Hist. New-York, vol. 3, p. 264.

subject to the *spiritual care of the Rector of that Parish.* The explicit and authoritative provision and declaration, that the Rector of the Parish of Trinity Church should have the "*care of souls* of the inhabitants of the Parish," or the inhabitants of the city, incorporated by the Charter, created of itself, by force of its own terms, an indispensable condition, restriction and limitation in regard to the persons who should be corporators of Trinity Church, or in any way entitled to the benefits of the Charter. To be of the Church of England was not enough, though inhabitants of the city. To be communicants of that Church somewhere, was not enough. They must stand by positive and recognised acts, acts well understood at the time in the Church, in that relation to the Rector, implied by that special and significant appointment made in the Charter, which, under the name of "the care of souls," made him their sole and only authoritative, spiritual supervisor, director and instructor; they must recognise him as the person appointed by the Charter to minister to them in sacred things; and they must do this by the ordinary acts of a parishioner; attending divine service in the Parish church, and not elsewhere, at least as an ordinary thing, looking to him, and not elsewhere, for the various services of the clerical office, and the sacraments of the church; and especially receiving at his hands, or at least in the Parish church, the Holy Communion, without which no one was entitled by the Charter to vote at the Easter elections for wardens and vestrymen of the church. All this I hold to be clear to demonstration; and we see by this precisely who were, and who were not, *parishioners* of Trinity Church. It was "the inhabitants of the Parish" over whom the rector had, by appointment of the charter, *the care of souls*—those with whom, by recognized and well established acts, he stood in the personal and spiritual relation of Rector, who were parishioners, and none others were parishioners. And it is simply because this has not been brought sufficiently into view, or sufficiently considered, that so many persons have been misled by the language used in the recitals and descriptions of the charter, and in the corporate name, in reference to "the inhabitants of the city of New-York in communion of the Church of England." A corporate name,

as a general rule, is one of the last, and least important, things to be looked to in a charter, when the point is to ascertain who are and who are not corporators. Anybody may be satisfied of this by looking over the lists of private corporations in this country and observing the names. In the present instance, if instead of "the Rector and inhabitants of the city of New-York, in communion of the Church of England," the name employed had been, "the Rector and *parishioners* of the Parish of Trinity Church, inhabitants of the city of New-York, and in communion of the Church of England," this would have signified just what the Charter intended and expresses, when its language is all taken together. And in looking for the true construction of the Charter, and of the subsequent Acts in relation to it, and of Queen Anne's Grant—the great endowment of the church—if any one, by way of facilitating and aiding his study of the subject, will substitute, for the occasion, this name for the other, as meaning—as I insist it does clearly mean—the same thing, only more accurately expressed to indicate the corporators, he will soon find, I am sure, that the difficulties which have been sometimes thrown around the case, have been altogether in words and not in things.

Bearing this name along with him, as a proper designation of the legal person, or entity, created by the Charter of 1697, and as truly indicating the corporators, and not calculated to mislead, like that bestowed upon the corporation in the Charter, coming first to the colonial Act of 1704, he will find it to be "An act for granting sundry privileges and powers" to the Rector and *parishioners* of Trinity Church. He will see that all its provisions were intended for the Rector and parishioners of that parish, and for nobody else. Coming next to Queen Anne's Grant of 1705, he will find there also a munificent bounty (so it has turned out to be) bestowed upon the Rector and *parishioners* of the parish of Trinity Church, and upon their successors forever. He will remember that "the inhabitants of the city of New-York, in communion of the church of England," is the corporate name of the body politic created by the charter of 1697, and is a *name*, and nothing else; that "the inhabitants of the city of New-York," and "the inhabitants of the Parish of Trinity Church," are iden-

tical in that Charter; that "the inhabitants of the Parish" are the *parishioners*, standing in the spiritual relation to the Rector which I have described; that it was the Parish, and the parishioners of that church, that were incorporated, and nobody else; that the term *parishioners* must be taken restrictedly, as meaning those and those only with whom the Rector, appointed to "have the care of souls," is placed in a *parochial* and spiritual relation, by significant and well understood acts. Recollecting all this, he will understand, without one doubt or difficulty, that the property bestowed by the Grant of Queen Anne has always belonged, and now belongs, to the Rector and *parishioners* of the Parish of Trinity Church, and to nobody else. Coming down then past the period of the Revolution; he will find the legislative Act of 1784, passed to secure the Charter, and property and rights of "the Corporation of Trinity Church," (so named in the title of the Act) and to give it a shape and form adapted to the new political government under which it had fallen. He will have no difficulty in understanding that all the benefits of that Act were intended for the Parish and the *parishioners* of Trinity Church, and for nobody else. No other parish had yet been formed in that city; and all its Episcopal inhabitants then, as originally, who chose to do so, by placing themselves in *parochial* relations with the Rector, were parishioners of Trinity Church. There was still no other church edifice in New-York but that of Trinity. In that church edifice, if in any church edifice in the city, must the Episcopalians of New-York have their sittings, and receive the Holy Communion. This Act added to the number of corporators entitled to the general rights and privileges of the charter—no doubt with the assent of the corporation—by giving such rights to holders of pews or seats. These rights had, by the charter, been limited to communicants only. The Act of 1788 followed, to change the corporate name of "the Corporation of Trinity Church," (so named again in the title) in order that it might stand by its name, as "in the communion of the Protestant Episcopal Church in the State of New-York," instead of "the Church of England."

Now, of course, in all this period, and for some years later, while Trinity Parish remained the only one in the City of New-

York, no question could well arise in regard to who were and who were not legally, Corporators and Parishioners of that Parish. All Episcopal inhabitants of the city, holding the requisite spiritual relation to the Rector, were Parishioners. It was, I think, in 1798, that the first independent Parish within the city was incorporated. Between that period and 1814, eight others were incorporated. Now in each of these cases, a Rector and Parishioners, wholly separate from, and independent of Trinity Parish, were constituted. Such Parishioners were Episcopal inhabitants of New-York, who had entered into independent spiritual relations with an independent Rector, and had wholly abandoned such relations to the Rector of Trinity Church. No attempt was made in any instance to maintain that relation within the city, or in the same general locality, with two Rectors at once. And in all the period during which these independent Churches were being formed, and existed, down to the passing of the Act of 1814, no instance occurred in which any Parishioner of any of these independent Parishes, claimed to be a Parishioner of Trinity Parish, or the right to vote at the elections of that Parish, except that in 1812, pending an unhappy excitement in a matter purely personal arising within the parish of Trinity, two or three individuals of another parish, partizans of one of the parties to the controversy, did offer to vote at the Easter election. The offer was of course refused, and met with no encouragement or countenance from any quarter. It was regarded almost universally, as far as known, as a flagrant impropriety; and it led to the passing of the act of 1814, with the approval, all but universal, of the Episcopalians of New-York, as well those who were not, as those who were parishioners, of Trinity Church. That Act changed, with great propriety the corporate name of the Parish, to that of "The Rector, Wardens and Vestrymen of Trinity Church," conforming in that respect to the style and title uniformly assumed by Episcopal Churches in this State, incorporated since the Revolution; and in its second section, of which so much has been said, it made a provision, at the special request of the corporation, to meet in the future all such disturbing and disorganizing attempts as had been made in 1812, by declaring, in substance, that none others than the *Parisioners* of Trinity Church should

vote at the elections of that Parish. It is indeed surprising and alarming enough, that first after a period of repose of thirty years, and now again after forty years have gone by, a serious attempt should be made by those who have chosen to separate themselves from the corporation and parish of Trinity Church, from her congregations, from her Rector and ministers, from her services, and from the communion at her altars, and to establish and maintain separate and independent Parishes and Rectors of their own; that a serious attempt should be made by such persons to come into Trinity Church, not to resume there any relations with her ministers or her people, not to worship in her temples, not for any purpose connected with the service of God, or with the practice or maintenance of the holy religion of which she is an appointed and faithful witness and dispenser, not for any of these purposes, but to come there just once a year, on Easter Tuesday, crowding and hustling at her sacred chancel, as men crowd and hustle and blaspheme at the political hustings on election days, with the spirit of all-uncharitableness in their hearts, and with an avowed design to seize upon her property and possessions, by wresting from her the control of them, and the management of her affairs; and all this upon some vague conceit and notion entertained by them, or somebody else in their behalf, that they are wiser and holier than others, and better fitted to be the stewards and dispensers of the estates and bounties of this great religious and charitable Foundation, than those to whom the trust was committed by the donors. Certainly I think, if Trinity Church can be disturbed in the quiet possession and enjoyment of her property and rights at this day, on any of the pretences, either of legal right, or of superior sagacity and sanctity, which are set up against her, or on any of the grounds of spite and scandal with which she has been assailed, I know of no property and no rights, in the ownership and possession of anybody in this State, that ought to be, or can be, deemed safe from the hand of rapacity and spoliation.

It is quite clear, that the Legislature cannot approach this subject in any way, or for any purpose of relief, such as is asked for, without entertaining, and adjudicating upon rights of property and of franchise of the highest value and importance,

brought into dispute between adverse and litigant parties, and upon all the law arising in the case. This is the business and province of the Courts, and not of the Legislature.

The demand is for the repeal or modification of the Act of 1814. The main ground on which that demand rests, is that the claimants were corporators of Trinity Church under the original Charter, and up to the passing of that Act. On the other side this is denied. This is the first great legal question to be decided. The repeal of the Act of 1814, or disturbing it in any way, so as to let in these claimants as corporators of Trinity Church, would be a foul wrong, and outrage, unless the Legislature shall first pass solemnly upon this vital question, and be prepared to decide it *judicially* in favor of the claimants. There is not one conceivable pretence on which the Act of 1814 can be touched short of such an adjudication.

If this point of law should be decided in favor of the claimants, the next great legal question in order will be, whether the Act of 1814 did or did not divest them of their rights as corporators. But this question will require the consideration and determination of others of great importance and nicety. If the Act was not passed with constitutional authority—if it was void—it divested no rights; and on every principle which, under our government, separates the Legislative and Judicial powers, the parties setting up a claim against it, or in spite of it, must be left to their remedy in the Courts. It would be monstrous for the Legislature to entertain a proposition from private parties, to repeal a law in which a question of private rights was involved, on the suggestion that it is void for want of constitutional sanction. The claimants insist that this act was unconstitutional; if it was so, in the sense in which they manifestly use the word, it was void; and if the Legislature entertain this claim on the showing of the parties themselves, they must entertain, and in some manner adjudicate on this point. The Act was either valid or void. The Legislature must so far consider this point as to determine, in a *judicial* manner, that it was not void, but valid, before they can grant relief to the private parties

affected by it, on the ground that it operated to take away from them their vested rights. And they must do this—pronounce the Act valid—while the very ground on which the relief is sought for, and would be granted—that it violated vested rights—would be conclusive to show that it was void.

But then another question of law, also of a very important and delicate character, arises upon this Act, and nothing could be more monstrous than for the Legislature to repeal it, in the way of relief to the claimants in the case, without first having entertained and *judicially* determined this question. The corporation of Trinity Church, the party in possession of the property and rights in this case, maintain that whatever may have been the rights of those not parishioners of Trinity Church before the Act of 1814, in regard to the franchise of voting in her elections, that that Act effectually and legally barred them of the franchise; that the Act was a contract made with the assent of the corporation, and with the assent also of all the corporators to be taken as an inference of law; that as such it was valid and binding on the State, as on the corporation and corporators; and that the Legislature has no constitutional right or power to violate that contract, by a repeal or any modification of the Act, without the consent and against the will of the corporation. Here are points of law which must be considered, and *judicially* decided, against the view and position taken by the corporation, before the Legislature can, without the grossest injustice, undertake to grant the relief demanded by the claimants.

I cannot suppose that the Legislature, or either branch of it, or any considerable number of its members, will be found willing to enter on any such service of judicial investigation and adjudication, as they have been asked to do in this case, when the subject is once understood by them. No man in the State has any right worth talking about, to anything he possesses or calls his own, if the Legislature may assume and exercise Judicial powers, such as are necessarily involved in the action which has been proposed to it in this case. For its own sake, for the sake of the indispensible order and division of public duties, constitutionally established in the government under which we live, for the sake of all private rights and all private pro-

perty, for the sake of the sense of common security, which would be fatally assailed by it, I earnestly hope and trust the Legislature will not assume any such powers.

I am, dear Sir, with sincere respect and regard,

your friend and servant,

D. D. BARNARD.

A WORD

FOR

TRINITY CHURCH.

FROM "THE AMERICAN CHURCH MONTHLY" FOR APRIL, 1857.

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1857.

A WORD

FOR

TRINITY CHURCH.

[From "The American Church Monthly" for April, 1857.]

We are in the midst of another ill-starred strife respecting the ancient and venerable Corporation of Trinity Church, New York. A good deal of bitterness and asperity has been shown on both sides. Divers pamphlets arguing the matter *pro* and *con* have made their appearance; some of which, as usually happens in such cases, are weak in spots, and strong in spots, only both their weakness and their strength are where they ought not to be; the weakness is in the argument, the strength in something else. All this is greatly to be deplored,—deplored, as tainting the honour of our common Christianity, and as inconsistent with the peace and good-will of brethren in the same household of faith. From these remarks we ought specially to except the *Communication* of the Hon. John A. Dix, which, to the best of our judgment, is marked by the candid and conciliatory style of a Christian gentleman.

Into this strife we really have not the heart to enter. Moreover, by the plan of our periodical, we must have little to do with controversy of any sort; with local controversy, nothing. But the subject involves some points of history and legislation, that cannot but be highly interesting to Churchmen throughout the State, and more or less so to Churchmen throughout the country. It also involves certain questions of

public policy and public morality, that are, or ought to be of interest to all good citizens. In moving the subject, we shall hope and earnestly endeavour to avoid every thing like a fighty or criminating tone. Nor, as we view the matter, is this so very difficult. For, in what is debated between the parties, we really can see no sufficient cause for raising any deeper issues than mere matters of opinion ; meaning, thereby, things concerning which men may freely differ without imputation either of bad motives or incompetency. We are resolved, therefore, not to impeach nor question any man's motives in this case, nor to suppose on either side any thing worse than honest errors of judgment. Of course we do not, for we cannot, expect that what we shall say will be satisfactory to all parties : perhaps we shall in turn dissatisfy all. The best we can hope for on this score is, so to govern our speech as not to incur any worse imputation than just such honest errors as fall within our rule in respect of others.

All which will come the easier, no doubt, forasmuch as we propose, not so much to judge the case for the reader, or to argue him into our opinion, as to lay before him, with as much fairness and impartiality as we can bring into exercise, the means of judging for himself. And if the reader, after making due allowance for the infirmities of an honest manhood, find us betraying any consciousness of difficulties which we dare not name, and cannot dispose of ; if he find us otherwise than thoroughly ingenuous and straightforward in argument ; then our advice is, that he do not "so slander any moment's leisure" as to read another sentence of this article.

In the year 1697, certain inhabitants of the city of New York in communion with the Church of England, having contributed sums of money towards building a church, and having erected a building on the site where Trinity church now stands, petitioned for a royal charter of incorporation, and a royal grant of "a certain piece or parcel of ground thereunto adjoining." On the 6th of May, 1697, a charter was accordingly issued under the seal of the Province by the Governor in Council. That our readers may have the matter fully before them, we will extract such portions of the charter as bear upon the points now in question ; giving the very words

of the instrument, only, for economy of space, retrenching certain verbal superfluities. After reciting the substance of the petition, and describing the locality and boundaries of the grant, the charter ordains as follows:

That the said church, erected and built as aforesaid, and the ground thereunto adjoining, inclosed and used for a cemetery or churchyard, shall be the parish church and churchyard of the Parish of Trinity Church, within our said City of New York; and the same is hereby declared to be forever separated and dedicated to the service of God, and to be applied therein to the use and behalf of the inhabitants from time to time inhabiting, and to inhabit, within our said City, in communion of our said Protestant Church of England as now established by our laws; and to no other use or purpose whatsoever, any statute, law, custom, or usage to the contrary notwithstanding. And that there shall be a Rector to have the care of the souls of said Parish, and a perpetual succession of Rectors there. And we do by these presents constitute the Rt. Rev. Henry Lord Bishop of London the first Rector thereof. And we create and make him the said Bishop of London and his successors, Rectors of the said Parish, together with all the inhabitants from time to time inhabiting, and to inhabit, in our said City, and in communion of our aforesaid Church of England, a body corporate and politic, with the powers and privileges hereinafter mentioned. And we ordain and declare that he the said Henry Lord Bishop of London, and his successors, and all such of our loving subjects as now are or hereafter shall be admitted into the communion of the aforesaid Church of England, shall be forever hereafter a body corporate and politic, in fact and name, by the name of the Rector and Inhabitants of our said City of New York. And that the said Rector shall have the care of the souls of the inhabitants within our said Parish.

And we further declare that the said Rector of the Parish of Trinity Church shall and may forever hereafter have a common seal, to use for all causes and affairs whatsoever of them and their successors; and the same seal to alter, break, and make new from time to time, as they shall think fit. And that, for the better ordering and managing of the affairs and business of the said Corporation, there shall be once in every year forever, on the Tuesday of Easter-week, two Churchwardens and twenty Vestrymen duly elected by the majority of the votes of the inhabitants of the said Parish in communion as aforesaid.

And moreover, of our special grace, certain knowledge, and mere motion, we do grant and confirm unto the said Rector and inhabitants in communion of our Protestant Church of England as now established by our laws, that the said church and cemetery or churchyard, situate within our said City of New York as aforesaid, shall be the sole and only parish church and churchyard of our said City.

From these extracts it is clear enough that the charter contemplated and determined that the City of New York should form but one parish, and should have but one set of Churchwardens and Vestrymen, the whole to be under the spiritual charge and jurisdiction of one Rector. And it is further evident that none but those who were in communion of the Church of England, that is, communicants, and who were also

inhabitants of the City, were to be corporators of the parish, or to have the right of voting for corporate officers.

In 1704, June 27th, an Act was passed by the Colonial Legislature, confirming without material change or variation the provisions of the forecited charter. This Act was repealed in 1784, so that nothing further need be said of it now.

By letters-patent issued under the seal of the Province, November 20th, 1705, a further grant of lands was made to the Corporation. This was called Queen Anne's grant; and consisted of the lands known as the Duke's farm, the King's farm, and the Queen's garden.

The Colony of New York became a State in 1777, and by a general clause of the Constitution adopted October 14th of that year, all these grants were secured to the Corporation. But the establishment of American independence necessitated certain alterations of the original charter. This was done April 17th, 1784, by "an Act for making such alterations in the charter of the Corporation of Trinity Church, as to render it more conformable to the Constitution of the State." We subjoin so much of this act as is material to the purpose in hand:

Whereas by letters-patent under the great seal of the then Colony, and now State of New York, bearing date the 6th of May, 1697, many of the inhabitants of the City of New York, members of the Church of England, were erected into a Corporation, by the name and style of the Rector and Inhabitants of the City of New York, of the Protestant Church of England as by law established: And whereas those parts of the said charter which render necessary the induction of a Rector to *the said church* by the Governor, according to such instructions as he shall receive from his Brittannic Majesty, and such other parts as acknowledge that rights exist in the Bishop of London in and over *the said church*, are inconsistent with the spirit and letter of the Constitution of this State: And whereas certain other parts of the said charter are contradictory to that equality of religious rights which is designed to be established by the Constitution of this State:

I. *Be it therefore enacted by the people of the State of New York, represented in Senate and Assembly*, that so much of the charter to the said body corporate, as relates to the induction of the Rector by the Governor, to the authority of the Bishop of London in and over the said Corporation, and to the levying a sum of money upon the City of New York for the use of the Rector or Incumbent, be, and is hereby repealed; and that nothing in this law, nor no non-user or mis-user between the 19th of April, 1775, and the passing of this law shall be in any wise construed to annul or make void the said charter, where the same is not inconsistent with the Constitution of this State.

II. *And be it further enacted*, that the Churchwardens and Vestrymen of

the said Corporation, or a majority of them, be vested with full powers to call and induct a Rector to *the said church*, so often as there shall be any vacancy therein.

And whereas doubts have arisen on those parts of the said charter, which speak of inhabitants in communion of the said Church of England; for removal whereof,

III. *Be it further enacted*, that all persons professing themselves members of the Episcopal Church, who shall either hold, occupy, or enjoy a pew or seat in *the said church*, and shall regularly pay to the support of the said church, and such others as shall in the said church partake of the holy Sacrament of the Lord's Supper at least once in every year, being inhabitants of the City and County of New York, shall be entitled to all the rights, privileges, benefits, and emoluments, which in and by the said charter are designed to be secured to the inhabitants of the City of New York in communion of the Church of England.

We have seen that by the charter of 1697 the right of being voters or corporators in the parish was limited to communicants. The third section of the Act of 1784 extends this right to certain other persons.

Of course, when this Act speaks of "a pew or seat *in the said church*," it refers, not to "the Episcopal Church" in general, but to the particular parish church mentioned in the title of the Act. The contrary supposition is simply absurd; for what is meant by "the Episcopal Church" clearly has and can have no pew or seat for any one to hold or occupy. Still it would appear that some have maintained the two phrases in question to mean the same thing: but this is quite too much; it involves such violence of interpretation, that we can but marvel how any one should either believe it himself or think to make others believe it. The avowing of such a belief, however, cannot justly be taken as impeaching a man's rectitude; for we may safely affirm that no one would ever venture to stand responsible for such a notion, unless he had first persuaded himself of its truth.

We will dismiss the Act of 1784 for the present, by citing so much of the sixth section as relates to the colonial statute of 1704:

And in order to remove all doubts which may arise in the minds of any persons with respect to the continuance, force, and effect of an Act passed on the 27th of June, 1704, "for granting sundry privileges and powers to the Rector and inhabitants of the City of New York, of the communion of the Church of England, as by law established:"

VI. *Be it therefore further enacted*, that the said Act be, and is hereby declared to be, fully and absolutely repealed and made void, as inconsistent with, and repugnant to, the Constitution of this State.

Under this statute, the charter name of the Corporation, though still retained, became obviously unsuitable. Accordingly, in answer to a petition from the party concerned, an Act was passed March 10th, 1788, "enabling the Corporation of Trinity Church to assume and use the name of The Rector and Inhabitants of the City of New York in communion of the Protestant Episcopal Church in the State of New York;" and securing to them under the new name all the rights and powers which they had held under the old. There was no further legislation on the subject, till the celebrated Act of 1814.

Up to this time, and for some years after, there was no other Episcopal church or corporation in the City. St. George's chapel, however, had been built in 1752, and St. Paul's in 1766, both of them being, in fact and in name, Chapels of Ease to Trinity Church. Of course, therefore, they stood, in law and administration, as parts of the mother parish, and as such were included in all legislative enactments relating to the same.

It is clear, that by the terms of the original charter, and of the Act of 1784, none could be voters or corporators in Trinity parish but such as were actually under the spiritual charge and jurisdiction of the Rector of that parish. There could also be but one set of Churchwardens and Vestrymen within the bounds of the City. In short, the rights of Trinity Corporation, over the area in question, were *exclusive*.

It has always, we believe, been a firm principle of law in the State of New York, and in 1819 was fully and finally settled as such for the whole nation by the decision of the Supreme Court of the United States in the case of Dartmouth College, that statutes erecting religious or charitable corporations are to all intents and purposes *contracts;* and therefore cannot be repealed or modified but by mutual agreement of the parties, unless the right of repeal be reserved. On the part of such corporations, however, this agreement may be either by express consent, or by silent acquiescence; and a party is in law deemed to acquiesce unless, within a certain time, he bring an action in Court to try the constitutionality of the legislative enactment. Thus, so far as we have the means of

judging, the agreement of Trinity Corporation to the Act of 1784 was by acquiescence; while to that of 1788 it was by express consent, for the Act was passed in answer to their petition. So, again, if Dartmouth College had not, within a certain period, instituted a judicial testing of the question, they would be deemed to have acquiesced in the Act of the State Legislature altering the Corporation, and by virtue of the agreement legally implied in such acquiescence that Act would have stood as law.

From all which it clearly follows, that without the consent of Trinity Corporation, expressed or implied, there could not, at the time in question, lawfully be any other Episcopal corporation in the City of New York. Yet, before the Act, already referred to, of 1814, there were nine other such corporations in the City. One of these was "St. Mark's church in the Bowery," opened in 1799. Another was Grace church, opened in 1809. A third was St. George's church, which, in 1811, was by mutual agreement set off from Trinity Church, and became a distinct parish. These three parishes were largely aided and endowed by gifts of money and grants of land from Trinity Corporation; and they have continued in the enjoyment of those grants to this day. Four others, also more or less aided by funds and grants from Trinity, were Christ church, St. James's, St. Stephen's, and St. Michael's. All these were distinct corporations, and their rights and titles as such were fully recognized by Trinity Corporation. The members of them were nowise under the spiritual charge or jurisdiction of the Rector of Trinity Church; they had each its own set of Churchwardens and Vestrymen; and therefore the terms of the original charter could nowise apply to them. Neither could they be reckoned within the provisions of the Act of 1784, "for making alterations in the charter of Trinity Church;" for that Act secures the charter rights only to those Episcopalians of the City, "who shall either hold, occupy, or enjoy a pew or seat *in the said church*, and shall regularly pay to the support of *the said church*, and such others as shall *in the said church* partake of the Lord's Supper, at least once in every year."

Nor, in fact, did they claim any right of voting in the elections of Trinity Church. For it seems to have been thoroughly

understood on all sides at that time, as indeed it well might be, that whenever any Episcopalians of the City got themselves incorporated as a distinct parish, they thereby lost the right of being, and in fact ceased to be, corporators of Trinity parish. And it was only on the ground of their being distinct corporations, and as such excluded from the franchises of Trinity Corporation, that they could legally receive and hold as their own any grants or endowments from that Corporation. They can have no right of control over what Trinity has retained, but on such grounds as would give Trinity an equal right of control over what they have received.

In further proof of this point, it may be well to advert to certain Acts of the New York legislature. The first of these is a general Act, passed April 6th, 1784, "to enable all the religious denominations in this State to appoint Trustees, who shall be a body corporate, for the purpose of taking care of the temporalities of their respective congregations." This Act makes it "lawful for the male persons of full age, belonging to any church *not already established*, to elect any number of discreet and prudent persons of their church, not less than three, or exceeding nine, as Trustees, to take charge of the estate and property, and to transact all affairs relative to the temporalities, of their respective churches." Does not this infer the exclusiveness of the corporations in question? Is it not most evident that persons belonging to a church that *was already established*, that is, incorporated, could *not*, from this Act, have any right to vote in election of the Trustees who were to be the new corporation?

But let us look at another Act, passed March 27th, 1801, "to provide for the incorporation of religious societies." This Act makes it "lawful for the male persons of full age, of any church or congregation in communion with the Protestant Episcopal Church in this State, *and not already incorporated*, at any time to meet for the purpose of incorporating themselves, and, by a majority of voices, to elect two Churchwardens and eight Vestrymen." Here, again, it seems very plain, that persons belonging to a parish that is already incorporated are not entitled by this Act to become corporators in a new parish. Will not, then, the converse hold, that if any persons do thus

incorporate themselves anew, they thereby cease to be members of any other similar corporation? But the Act further limits the right of "incorporating themselves," and of voting in election of corporate officers, to those "who shall have *belonged to such church or congregation for the last twelve months preceding* such election, *and* who shall have been baptized in the Episcopal Church, *or* shall have been received therein either by the rite of confirmation, or by the holy communion, or by purchasing or hiring a pew or seat in said church, or by some other joint act of the parties and of the Rector." Here nothing seems plainer than that, in an election of corporate officers in any parish, none can be voters but those who have belonged to that parish the whole year before such election.

In 1813, a third Act was passed substantially reaffirming the Act of 1801.

Still, from the want of any positive prohibitory clause in the foreeited Acts, there appear to have been some doubts as to the precise and exclusive terms upon which persons were entitled to vote in parish elections. For those Acts are express as to who shall, but silent as to who shall *not*, be entitled thus to vote. To remove those doubts, if there were any, a *declaratory* statute was passed March 5th, 1819, amending the Act of 1813. This statute, after reciting the main points of the Act to be amended, and after reaffirming 'the qualifications therein specified," expressly *provides*. "That no person not possessing those qualifications shall be permitted to vote at any subsequent election of Churchwardens and Vestrymen."

Taking all these legislative enactments together, it is abundantly certain that in this State parish corporations are meant to be exclusive; that the members of a church already incorporated are, as such, precluded from becoming corporators in another church; and that, conversely, those withdrawing to a church not already incorporated, and proceeding to incorporate themselves, thereby lose the right of being corporators in the church from which they have withdrawn. So that in this case we have a rule that works both ways. And when, prior to 1814, there were nine other Episcopal churches in New York besides Trinity, the members of those other churches had just as much right to vote in the parish elections of Trinity, as the

members of Trinity had to vote in the parish elections of those others; just as much right, *and no more*. And for many years this rule was practically understood, acquiesced in, and acted upon by all the parties concerned. And it was under and in pursuance of the forecited Act of April 6th, 1784, that St. Mark's church and Grace church, before they were incorporated, appointed each a Board of Trustees, who were to hold and did hold in trust for those churches, until they became incorporated, the grants made to them by Trinity. And when the members of St. George's chapel withdrew from their connection with Trinity, and became a distinct corporation, it was expressly understood as the condition of their endowment, that they were no longer to exercise the rights of corporators in the mother parish; that is, they barred themselves by positive compact from voting in the parish elections of Trinity. Of course those who at this day have inherited the benefits of that endowment, have also inherited the obligations of that compact; nor is it possible, legally or morally, for them to renounce the latter without also forfeiting the former.

To the rule of which we have just spoken there is, however, one and only one exception. This exception is of pew-owners or proprietors in any church. From the general rights of individual property as secured by law, a person has the special right of voting in the parish elections of any church or churches where he owns a pew. And this right holds not only in respect of different churches in the City of New York, but of all the churches in the State. For example, Mr. G. C. Verplanck is a pew-owner in Trinity church, Fishkill, and in Trinity church, New York; and as such he is invested with the rights of a corporator in both those parishes. And, for the same reason, if he owned pews in St. Mark's and St. George's, New York, in St. Peter's, Albany, St. James', Syracuse, and St. Paul's, Buffalo, he would have the same right of voting in the parish elections of all those churches. Nor does it make any difference in this respect, if a man be a pew-owner or proprietor in other than Episcopal churches: he may own pews in a Presbyterian, a Dutch Reformed, a Baptist, a Methodist, and an Unitarian church; and, if so, he can claim and exercise the rights of a corporator in them all, and have a vote in their corporate

elections. So that this exception will nowise serve in aid of any alleged corporate rights, but what rest upon the ground of individual proprietorship.

We come now to the Act of January 25th, 1814, "to alter the name of the Corporation of Trinity Church, New York, and for other purposes." This Act was also passed in response to a memorial from the Corporation. In their memorial the petitioners set forth, that in the year 1697 they were incorporated by letters-patent under the great seal of the Colony, and have ever since continued to be a body corporate by virtue of that charter. That, at the time of granting the same, it was contemplated that Trinity Church should be the sole and only Episcopal parish in the City of New York, and that in fact it so continued to be until the Revolution. That since the passing of the Act of April 17th, 1784, the pew-holders of Trinity church and of the chapels belonging to the same, and the regular communicants therein, have been the only persons admitted to vote at the parish elections of Trinity, according to the just and fair construction ever since given to that Act. That, in consequence of the rapid growth of the City, Trinity church and her chapels became insufficient to accommodate all the Episcopal inhabitants; on which account numerous Episcopalians of the City have formed themselves into distinct corporations, each having its own endowments and places of worship, with Rectors and other officers of their own choice, totally independent of the petitioners. That to the parishes so incorporated they have made liberal donations; and that the members of Trinity Church do not, as such, claim any right to intermeddle with the internal concerns of those parishes; nor do those parishes possess or claim any right to vote in the elections, or regulate the affairs of Trinity. That, nevertheless, a few persons belonging to such corporations have lately pretended to claim that right; and that at the parish election of Trinity, held in March, 1812, two or three such persons tendered themselves as voters; but their votes were rejected, and no measures have been taken to establish the right so claimed. That attempts of this nature cannot fail to produce strife and litigation, and to foster and keep alive unreasonable and mischievous pretensions. That, since the forming of such

distinct corporations, the corporate name of Trinity Church has become inapplicable, and ought to be changed, as that parish does not include all the Episcopalians of the City; and that it has become essential to the peace and harmony of the Episcopal Church, that all doubts respecting the persons entitled to vote in the parish elections of Trinity, which may arise in consequence of those distinct corporations, should be finally obviated and settled.

We subjoin, with but our usual curtailment of verbal redundances, the main parts of the Act passed in answer to this petition. After reciting some of the reasons and causes of the Act as set forth in the petition, the Legislature enacts as follows:

I. That the Corporation of Trinity Church, instead of their present name, shall take and use the name of "The Rector, Churchwardens, and Vestrymen of Trinity Church, in the City of New York."

II. That all male persons of full age, who, for the space of one year preceding any election, shall have been members of the congregation of Trinity church, or of any of the chapels belonging to the same, and forming part of the same religious Corporation, and who shall hold, occupy, or enjoy a pew or seat in Trinity church or in any of the said chapels, or have partaken of the holy communion therein within the said year, and no other persons, shall be entitled to vote at the annual elections for the Churchwardens and Vestrymen of the said Corporation.

III. That all grants and conveyances heretofore made, or that hereafter may be made, by Trinity Church to any other religious society now incorporated, or that may hereafter be incorporated, shall be, and are hereby declared to be, valid and effectual, according to the tenor thereof.

And whereas St. George's church, in the City of New York, was one of the chapels heretofore belonging to Trinity Church, and the pew-holders in the said chapel, and others qualified according to the charter of Trinity Church and the laws of the State, were corporators of the said Trinity Church: And whereas, by mutual agreement, the said chapel, with such of the corporators of Trinity Church as belonged thereto, or statedly worshipped in the said chapel, have been set off as a distinct religious society, and have incorporated themselves as such; and the Corporation of Trinity Church have granted to the said religious society the exclusive right to the said chapel, with the appurtenances; but doubts are entertained as to the legal validity of the transaction; therefore,

IV. *Be it further enacted*, That the separation of St. George's chapel from the Corporation of Trinity Church shall be, and hereby is confirmed; and that the said church, now called St. George's Church, shall not at any time hereafter be held or taken to be a chapel belonging to Trinity Church, so as to qualify any of the congregation thereof to vote at the elections of Trinity Church above mentioned. And the said religious society shall have a right to all the temporalities derived from the Corporation of Trinity Church as aforesaid, and may enjoy the same in as full and beneficial manner as any such religious corporation can hold and enjoy its temporalities, howsoever the same may be acquired.

V. That when, and as often as it shall seem expedient to the Rector, Churchwardens, and Vestrymen of Trinity Church, to divide the corporators belonging

to the said Corporation, it shall be lawful for them so to do, by setting apart, as a separate church, any of the chapels that may belong to and form part of the said Corporation, provided the same be done with the assent of a majority of the persons entitled to vote as aforesaid, who shall belong to such chapel, and who shall attend a meeting to consider of such separation after at least ten days' notice given for that purpose in the said chapel, during or immediately after divine service; and such separation shall take effect according to the terms agreed upon between the parties; and the members of the congregation of such chapel shall immediately thereafter cease to be members of the Corporation of Trinity Church, and may proceed to incorporate themselves according to law as a separate congregation of the Protestant Episcopal Church.

A part of this Act, so much of it as relates to the qualifications of a corporator, was merely declaratory in its nature and effect. It was not meant to work, nor did it work, any substantial change, in this respect, either of law or of practice. The tenure of corporators, the rights of voters in parish elections, were continued the same as they had been understood and acted upon under the charter and the Act of April 17th, 1784. Since the passing of that Act, a very different set of circumstances had arisen; and there might be or was likely to be some doubts as to the proper construction and application of that Act in those new circumstances. To prevent, as far as possible, any evils, any strifes or disputes that might grow from this cause, was clearly the purpose of the Act of 1814; so much of it, that is, as relates to the point in question. All, it seems to us, must agree that this end was a good one: the means used for attaining it may not have been the best, but we suspect it was at the time, as it still is, easier to censure the course pursued than to point out a better. A few persons, it is true, (and the Legislature were not left in ignorance of the fact,) had formally claimed the right of voting in the parish election, and their votes had been refused; but they had taken no proper measures for making good that claim. Of course, in any action for testing the legality of such refusal, Trinity Church could not be plaintiff; from the nature of the case she could only be defendant: it was for the party whose alleged right of voting had been denied, to bring a suit against her; she could not bring a suit against herself. She therefore took, so far as we can perceive, the only way of peace that was open to her.

But the Act of 1814 was passed in the face of still further information. This was in the shape of a *Memorial* to the Leg-

islature, dated New York, March 3d, 1813, and bearing the signatures of Thomas Farmer as Chairman, and Benjamin Ferris as Secretary of a "committee appointed by a general meeting of Episcopalians at Mechanic Hall." After referring to the charter of 1697, the *Memorial* alleges, "That the congregation of Trinity Church have usurped all the privileges and taken into their possession all the property of the Corporation; thereby disfranchising, in respect to the said charter, a great majority of the Episcopal inhabitants of the City." And it closes with a prayer, that no law may be passed which will sanction the unjust proceedings of Trinity Church, or affect the rights of other Episcopalians of the City, who have equal claims to the benefits of the charter.

A Bill framed in pursuance of the forecited petition of Trinity Church was introduced in the Senate, March 17th, 1813, and referred to the committee of the whole. On the 18th, the "memorial of Thomas Farmer and others" was read, and referred to the same committee. On the 20th, Mr. Van Buren reported, from the committee, that they had gone through the Bill, added a proviso, and agreed to the same. On the 25th, it passed the Senate by a vote of 21 to 9. De Witt Clinton, President of the Senate, was in the chair during these proceedings.

On the 30th of March, the House of Assembly passed a resolution calling upon the Attorney-General, Mr. Van Vechten, for his official opinion, "whether the passage of the Bill would in any wise defeat or vary any existing vested rights under the charter granted May 6th, 1697, or any Acts altering the said charter." On the 31st, Mr. Van Vechten gave it as his opinion, "that the passage of the Bill would not defeat or vary any existing vested rights under the said charter and Acts." On the 2d of April, a motion was made to reject the Bill, and was lost by a vote of 66 to 23; whereupon the Bill passed.

The Bill was still subject to the executive veto in what was then known as the Council of Revision. On the 5th of April, it was received by the Council, and referred to Chancellor Lansing, who reported certain objections to it; the chief of which was, that *if* the members of the several Episcopal churches in the City of New York incorporated since the Act

of April 17th, 1784, have a right to vote at the annual elections of Trinity Church, though not having the qualifications prescribed by that Act, the Bill might divest or impair such right. The objections remained to be acted upon at the next meeting of the Council. Meanwhile, Judge Troup, then a vestryman of Trinity Church, was requested by two members of the Council to "furnish them with his reasons in support of the Bill." This was accordingly done; and those reasons were set forth at length in a pamphlet bearing date New York, September 6th, 1813, and signed "Robert Troup." At the next session of the Council, held on the 25th of January, 1814, the aforesaid objections were considered, and, "the question being put thereon," there was a tie vote, three on each side, the Chancellor voting against the very objections which he had reported at the former session. The result was, that the Bill became a law by lapse of time.

Certain insinuations have lately been thrown out, to the effect that Judge Troup, as agent for the Corporation, or acting by their authority, brought some impure and unlawful arguments to bear in support of the Bill. This is very strange. Bishop Hobart was then at the head of the Corporation, and among its members were Richard Harison, Thomas L. Ogden, Peter A. Jay, and Jacob Sherred. Mr. Harison had so much of Washington's confidence as to be appointed by him District-Attorney of the United States. From the same clean hands Judge Troup received an appointment to the Bench of the District Court; and he was deemed pure enough to share the confidence and fellowship of Alexander Hamilton. Chancellor Lansing is well remembered by persons still living as a man of the most exact and scrupulous rectitude: there was no public man of the time, who bore a higher or whiter character. We should not like to be the man to stand responsible before the public for any insinuations against the integrity and honour of such men as these. Whatever may be the right of the matter in regard to Trinity Church, we owe it to ourselves to respect and guard the memory of these pure and good men, these our fathers. God help us, if the characters of such men, after they have undergone the consecrating touch of death, are

to be assailed with hints of corrupt dealing in the performance of a sacred public trust!

Nor are we without pretty strong tokens, how the Act of 1814 was regarded at the time by the Episcopalians outside of Trinity parish. One of these is as follows: "At a meeting of the Rector, Churchwardens, and Vestry of the church of St. Mark's in the Bowery, in the City of New York, April 16th, 1812," the draft of a letter to the Vestry of Trinity church was presented, and a resolution taken, "That the same be adopted, and that the Clerk of this Vestry prepare and transmit to the Vestry of Trinity Church a copy of the same under the seal of this Corporation." In this letter, after expressing their regret at learning that some of their brethren assert the claim of a general right in all the Episcopalians of the City to vote at the parish elections of Trinity, they add the following:

Whatever colour may be given to this claim by any ambiguous words to be found in your charter, we sincerely take pleasure in declaring that the congregation of St. Mark's church, which we represent, have no desire to assert the claim; and that we will, at any time hereafter, cheerfully unite with your respectable body in an application to the Legislature, if the measure shall be thought expedient, for an act to explain the charter, and confine the right of voting solely to the congregation of the churches under your immediate government: and we beg leave to add, that we shall cheerfully unite in such application, as well from the earnest wish we have to establish peace, as from the strong sense we entertain, that the measure itself is dictated by the natural fitness of things, and more especially by the never to-be-forgotten rule of doing to others what under similar circumstances whe should like to be done to ourselves.

Surely there can be no need of questioning the rectitude of any men who lent their hands to a measure thus sanctioned by so upright and disinterested a party as the Vestry of St. Mark's.

The Act of 1814, for aught appears to the contrary, was quietly acquiesced in by all the Episcopal inhabitants of the City, for the space of *thirty* years; whereas, according to the ordinary rule of such cases, only *twenty* years were required to the outlawing of any alleged right put in abeyance by that Act. As we have already seen, the Act, being by mutual agreement of the parties, was to all intents and purposes a contract between the Legislature and the Corporation: it was such both in law and in equity; such by the Constitutions of the State and the United States. We hear of no attempt to interfere with it till 1846, when several petitions were sent to the Legislature, ask-

ing its repeal. These petitions, all together, bore the names of 588 persons, styling themselves "inhabitants of the City of New York, in communion of the Protestant Episcopal Church." The petitioners were chiefly members of not more than five or six Episcopal churches of the city; nor was there any instance of such a church applying for the repeal in their corporate capacity. These petitions were met by several remonstrances, some of which were from *ten* other Episcopal churches of the City, acting in their corporate capacity. Besides these, there were other remonstrances to the same effect, signed by the male members of Trinity parish generally, and by 825 male members of other Episcopal parishes in the City. Both the petitions and the remonstrances were referred to a committee of the Senate, a majority of whom made a *Report* recommending "that no legislative action be had on the subject, and that the prayer of the petitioners be denied." Except a minority *Report* made the same day, there was no further action in the matter during that session. The next year, those petitions and remonstrances were renewed, and referred to the Judiciary Committee of the Assembly, who, on the 30th of March, 1847, made an elaborate and unanimous *Report*, closing with a resolution, "That the prayer of the petitioners ought not to be granted." The *Report* presents a very clear and solid argument covering the whole case. The following portion of it, which is all we have room for, ought to be deeply pondered at this time:

> Viewing this as a mere private controversy between individuals, relating to personal privileges claimed by one set and denied by the other, which the ordinary courts of justice now are, and at all times have been entirely competent to determine, the committee are unable to perceive why it should not be subject to the same general rules for promoting peace and quiet, and terminating litigation, which would be applicable to it if agitated in its proper tribunal; at least they think such a principle a safe guide for legislation generally, and they see nothing in this case to exempt it from the general rule. There has been no impediment or obstruction to the regular and usual jurisdiction of the courts, and no reason has been assigned why resort has not been had to them in some of the various forms which would have afforded ample redress for any wrong.
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> The case does not present a mere omission to exercise an unquestioned right, but a submission to, and acquiescence in, what is alleged to have been a gross wrong. The doctrine of acquiescence is not and cannot be applied to any other case: the question cannot arise until some asserted right has been violated. In regard to corporate rights, the courts have fixed upon the term of twenty years during which they must be claimed or exercised, or be deemed

waived. This is the longest term which by our laws is allowed to individuals to assert their rights in any case; and an exclusion of even a rightful claimant from the possession of property, or the enjoyment of any easement, privilege, or franchise, during that term, without any proceeding on his part for redress, authorizes and demands the presumption of a waiver and abandonment of the claim.

In the pamphlet by Judge Troup, giving his reasons for the Bill in 1813, certain expectations were held out as likely to be made good in the event of that Bill becoming a law. That Trinity Church would thereby be enabled, from time to time, to set off her chapels with the consent of their members, let them form distinct corporations, and endow them with competent estates. That she could also dispense her wealth "in the heavenly work of propagating the Gospel," and in aiding churches and other religious and charitable institutions. And that in this way her property might be kept reduced within limits congenial to our republican systems and sentiments. Whether in raising such expectations the writer acted by the authority of the corporation, does not appear. Nor is it material; for those "pledges of the Vestry," if such they were, have in fact been realized to the fullest extent that any reasonable man could ask; though whether always in the precise way which we might think the best, is another matter. It appears from a recent *Report*, that the whole landed estate of Trinity Church originally consisted of 2,068 lots. Before the Act of 1814, she had alienated 299 lots, in one way or another, for the purposes in question. Many of these lots were granted by way of endowment to particular churches; as, 28 to St. Mark's, 25 to Grace, and 33 to St. George's, all in the City of New York. Since the Act of 1814, there have been grants of 19 lots; besides which, as appears by the aforesaid *Report*, no less than 1,059 lots have been *sold*, and the proceeds *given* for the same or similar purposes; thus leaving 691 lots still in her possession. The 299 lots granted before 1814 were probably worth, in 1847, not far from $1,401,145; but at the time of granting were certainly not worth more than one-fifth of that sum; say, $280,229. Reckoning at the same rate the 19 lots granted since 1814, their worth at the time of granting was $15,300; while the proceeds from the sale of the 1,059 lots have reached the sum of $1,007,530. So that we have the sum of $1,022,830 given

since 1814 in fulfilment of Judge Troup's "pledges," where only $280.229 had been given before that date.

It is true, that since 1814 she has not set off and endowed any of her chapels. By the Act of that year she was precluded from doing so without the consent of their congregations. But she has not asked their consent? Perhaps not; it does not appear that she has; neither does it appear that she has not. She may have thought that a proposal of separation had better come from them than from her. And it will be time enough to find fault on this score, when we know that such a proposal from them has been refused by her.

On some accounts, it may indeed be matter of deep regret that the lots sold since 1814 had not rather been granted away in the shape of endowments to churches and Church institutions; so that their great rising in value, instead of enriching private purses, might have gone to enrich the public cause of religion and learning. But suppose it were certain that the Corporation have not pursued the wiser course in this respect; this, of itself, would but infer an error of policy to be corrected, not a crime to be punished. But it is by no means certain, that *in the circumstances* any better course could have been taken. In 1814 a large part of the most valuable property had already been granted away. Of the remaining lots, far the greater number, besides being then of comparatively little value in themselves, were tied up under very long leases. To have granted endowments out of such, had been rather a present incumbrance than a present help to the grantees; and precisely what the churches aided by Trinity most wanted was, present help, to carry them through the perils and weaknesses of infancy. Perhaps, then, after all, it was only by selling lots and giving the cash, that at the time Trinity *could* furnish the needed assistance. And, but for the timely aid thus rendered, it is all but certain that many parishes that are now thriving in their own strength, if indeed they had ever started into being, would have long since ceased to be. Let us be fair and candid in this matter. The truth is, we, whatever right we may have to our own opinion, are not the most competent judges of what were best to be done in such very different circumstances as those existing twenty, thirty, forty years ago.

We, circumstanced as we are, may easily see, or think we see, the past policy of the Corporation to be unwise now: still it will not hurt us to vail our judgment a little to the wisdom and virtue of men who were called to judge and to act then.

However, we are not greatly concerned to vindicate the past policy of the Corporation from error even at the time, so it be not turned into a ground of punishment or crimination. And we think it must in candour be allowed, that, however wise their course may have been in times past, they have persisted in it too long; shaping their action, as was but natural, rather by a line of precedents that ought to have been obsolete, than by the special wants and exigencies that were rising around them. Still we would bear in mind, that there was no thought of pleasing us when the Corporation was formed. They are under no particular obligation to please us. They are the stewards of an important public trust. In the execution of that trust, they are bound to use their best judgment. Is there any proof that they have not done so? Dare any man allege any moral taint in them, to blemish the rectitude of their action?

We have now got through with the legal and historical part of the question; but cannot make up our mind to leave the subject without adding a few considerations of reason and policy.

It is a long-established and well-known rule of English ecclesiastical law, that a man cannot be a voter in two parishes at the same time. We have seen that in this country there is one, and but one, basis of exception to this rule; that of pew-owners in two or more churches. The rule is firmly grounded in the reasons and conditions of parochial government and discipline. For it is clear that the whole frame-work of spiritual order is at once unhinged, if a man, by being under the spiritual charge of two or more Rectors, is to have the chance of slipping from under the reaches of censure as often as occasion urges, or temptation invites. It may well be thought, therefore, that even our one basis of exception to the rule is too much; certainly there should in all reason be no more such added.

There never has been, there could not be, any legislative

enactment of the State, carrying with more stress the nature and obligations of a contract, than the Act of 1814. It was every whit as much a contract as the original charter, which even all the violences of the Revolution were not enough to impair. Nevertheless, it may be broken by the tempests of theological warfare. To speak as a citizen of New York, the special interest of Trinity Church touches but few of us, very few; but all good citizens are deeply interested in maintaining the sacredness of contracts, and the security of property, and the sweetnesses of good order and peace, depending on that sacredness. Let the people beware, and let their representatives beware, lest they permit the special workers against old Trinity to plant a general rule that may some time be found to work against themselves. In tapping our neighbour's mill-pond, we may make such a letting out of water as will wash away our own gardens.

The repeal of the Act of 1814 will *settle* nothing; it will only leave things just where they were before the passing of that Act; unless such repeal should be itself an added theme of strife and litigation. Moreover, the repeal is now mainly urged on the ground, that the estate was originally given for the equal benefit of all the Episcopalians from time to time inhabiting, and to inhabit, within the City of New York. Large portions of that estate have been surrendered by the Corporation to the exclusive use and control of certain parishes in the City. It was gravely doubted, as it well might be, whether they had any legal right thus to grant away for the benefit of a part, what they had received in trust for the benefit of the whole. To remove those doubts, and to legalize those grants, was one of the purposes of the Act in question. Nor can any of the parishes or institutions which have been endowed by Trinity make out any clear right, either in law or equity, to their endowments, but what stands on that very Act. And, at all events, it is perfectly clear, that Trinity could not convey to them a stronger title than her own, to the several portions of the estate. Is it worth the while, then, is it wise, for those parishes to acquiesce in a stripping of Trinity on such principles as must issue in a stripping of themselves? Surely both their gratitude and their interest must forbid such a thing;

nay, their gratitude ought to be enough to forbid it, even if they had no interest, and their interest, even if they had no gratitude. The house of Trinity stands too near their houses to make it either safe or innocent for them to let hers be fired.

Trinity Church, it is true, has by no means satisfied all those who, for many years, have been beseeching and besieging her for help. If she had owned half the wealth of the City, she could scarce have answered to the full all the demands made upon her. Of course,—we mean no special blame to them ; such is human nature,—of course, those who got nothing were offended that they did not get something, and those who got something were offended that they did not get more. Of course, too, every applicant *thought* himself the best judge both in his own case and in that of all other applicants ; and nothing would satisfy him, but that the lesser needs of all others must give way to his greater need. And it is just barely possible, that as some may have turned advocates *for* Trinity, because they have got a place under her fig-tree ; so also some may have turned advocates *against* her because they have not got a place under her fig-tree. Poor human nature!

For some years, it has been more or less the custom of Trinity—we will not answer for the wisdom of her course herein—to make real gifts under the name of loans. She now holds mortgages, to a large amount, on such nominal loans. But these bonds have been taken with a full and perfect understanding that they were not to be enforced ; and are notoriously held merely in order to prevent any diversion of the property to other than the rightful ends. She is therefore bound in honour and good-faith to let them rest. And, what is more, it is clearly for her *interest* to let them rest. But suppose her tenure broken up as an usurpation, and the property thrown under the control of all the Episcopalians of the City. Is it likely that they will hold themselves bound by the pledges of honour and good-faith made by an occupant whom they have justly ousted? Is it not likely that they will have as strong an interest to enforce such bonds, as Trinity has to leave them unenforced? They will soon have plenty of use for the money ; Trinity does not need it. Their position will then be, that they were the rightful owners of the property all

the while, and that Trinity was but an usurper: and is it to be supposed that they will deem the title of those who gave the mortgages to be any better than that of the mortgagee? Men may indeed do right sometimes, though it be against their interest; but we should prefer to trust those whose interest it is to do right, and who cannot but know that such is the case.

This mode of nominal loans and nominal mortgages, is, we grant, liable to some serious objections. It is apt to create a somewhat delicate and perhaps embarrassing relation between the giver and the receiver. But we can by no means admit that it tends, as a general thing, to break down or impair the independence of the parties benefited. Individual exceptions of course there will be; everywhere are to be found some men who will crouch, and fawn, and become sequels to another, for favours had or wanted. But, assuredly, he knows little of Anglo-Saxon manhood, especially under its heightened and intensified American form, who supposes that its character is, or can be made to be, less manly and independent in action or thought, under relations and for causes of this nature. We are sensitively tenacious of our independence, and sensitively jealous of all influences that can be imagined in any way to relax its sinews or undermine its basis. To avoid the appearance or imputation of softness or pliancy in this the backbone of our character, we rather go to the opposite extreme; and in nine cases out of ten, he who thinks to curry or bribe us out of our independence by considerations of money will but find us all the more stout in grasping it, and all the more bold in manifesting it. And, in the present case, we may safely affirm that where one has bowed or succumbed beneath the influence of benefits received or expected, nine have stood the more erect and stiff for that very cause; and some, no doubt, have even leaned the other way, lest they should seem to be influenced after an ignoble and unmanly sort. So that the objections in question hold much rather to the disadvantage of Trinity and of any interest specially espoused by her, than otherwise. This is clearly true in argument of reason, and it is found to be true *in point of fact*, so far as the motives of the beneficiaries of Trinity have transpired in their public action. We, for one,

are glad it is so, and we trust that so it will ever be; for High Church and Low Church are to us small matters in comparison of Christian manhood. That they have been and are so likewise to the Corporation of Trinity, will scarce be questioned by any one who thinks as he ought to think of such men as the late David B. Ogden and Chancellor Jones, and of such men as the living Mr. G. C. Verplanck, Mr. John A. Dix, and Mr. Abel T. Anderson.

As for the clamour that has been raised about the building of Trinity chapel, we really must confess that it appears to us something rather worse than unreasonable. Let us look at the facts. It is well known that most of the old parishioners of Trinity had removed to a long distance from any of her existing church accommodation. Trinity church and the two chapels of St. Paul's and St. John's were in a part of the City from which nearly all other labourers had withdrawn, and where there was a growing need of free churches and missionary work, unless the whole region were to be abandoned. The new chapel was built, either because the old places of worship had been, or in order that they might be, turned into free churches and missionary establishments for the benefit of those who had been, or were likely to be, left unprovided for by others. It was certainly natural for the old parishioners of Trinity to wish that their mother parish should go with them, or follow them with her ancient and hallowed ties. She had been the spiritual home of their fathers. She was the parish in whose venerable bosom they had been baptized and confirmed; where their funereal tears had gushed, and where the marriage benediction had been spoken over them. It is through these tender and precious memories that our holy and beautiful religion sheds her selectest influences upon us: much of her best power over us is entwined in one growth with these sanctities and sweetnesses of old affection.

But the parishioners of Trinity were rich, and well able to take care of themselves? Be it so. The rule, if a good one, will doubtless work both ways. Grace church and St. George's, besides that their members were of the wealthy class, much more so indeed than those of Trinity, had a large amount of corporate wealth originally derived from the Trinity estate.

They also had removed away from their old churches. They also clung to the sacred associations of their spiritual fatherland. What, then, did they do? Did they retain their old places of worship, and carry them on for the benefit of the poor? Did they devote any portion of their corporate wealth to free churches and missionary labour in the region they had left? No such thing. They alienated their down-town churches, and used their corporate wealth in erecting their noble and magnificent up-town structures. We are far from blaming them for doing so. They had not corporate wealth enough to keep up the old churches for others, and to build new ones for themselves. Trinity *had* enough to "provide for her own household" up-town, and also to retain her down-town churches as a provision for those whom others had left in her care. And there now stands old Trinity with her two daughters, and long may she stand, the noblest ecclesiastical structure in the land, for the use and benefit of the poor. God bless our poor brethren! she is not a whit too good for them. If architectural beauty can do any thing to win them to the beauty of holiness, and to the consolations of holy hope, in Heaven's name, let it be done! But the rich have souls to be saved as well as the poor; and we see no reason why the Church should depart from the rule of making herself all things to all men in respect of them any more than of others. Even granting their habits of elegance and splendour to be but infirmities, still those habits may lawfully be complied with, for the sake of doing them good. Nor can we allege any sufficient cause why the temples of God should let themselves be outshone by the temples of Mammon and the palaces of domestic comfort and splendour. We therefore heartily approve the expending of $300,000, or more, if more there were, in the superb structure of St. George's church. And for the same reason we approve with equal heartiness the expending of $230,000 in Trinity chapel. This, too, is a superb structure: as prices then were, it is well worth the money; and we would not have had it cost a cent less. And as for those who are now clamouring against the cost of the chapel, we will do them the credit to believe, that if Trinity had stinted herself to $50,000 in a church up-town, they would have been among the first to cry, Shame upon her!

We have no reason or right to expect that Trinity Church

will give much heed to any opinion of ours. We owe her no subscriptions, and she owes us none. And we have no such reaches nor any such reputation of sagacity, as would warrant her in regarding what we may think or say. Nevertheless, we will hazard an opinion. She is now labouring under a chronic disease of giving, and has superinduced upon others a chronic disease of expecting. This disease cannot be healed all at once, nor can its issues be stopped all at once without imminent danger to the patients. She has lately been left in the almost undivided occupancy of a very large and important field. Our opinion, then, is, that she will do most both for herself and for the cause at large, by gradually retrenching her donations abroad, and spending much the larger portion of her means in her own immediate sphere. Let her endeavour with all her might to do the very best that can be done in the way of parochial organization and parochial operation, in all its parts and members. Let her strive to present a living and life-giving model of parochial schools, charities, whatsoever may be legitimately brought within the care and compass of a parish that means to be and ought to be "the cynosure of neighbouring eyes." Let her also, in all her appointments, be careful to select her men because the place wants them, not because they want the place. Last, not least, let her, in the true spirit of our institutions, trust freely in the honesty and practical good sense of the PEOPLE, in the full assurance that with them no dodges, no trickery, no shams, no sophistry, no playing of fast-and-loose can permanently go. With us, thank Heaven! the *People*, the PEOPLE are sovereign. We believe that in the long run they will prove the wisest, noblest, bravest, most evenhanded, and most generous Sovereign that has ever reigned in our world. Perfect honesty, perfect fairness, perfect candour, these are what they like, what they know how to distinguish, and what they will stand by to the last. It is to their practical discernment and love of these qualities that Trinity must now look for defence against the arts of her assailants. Give that love and discernment proper time to work, and she will need no other defence. The People will not suffer any one to be wronged, who trusts in them; nor will they long be deceived by any one who undertakes to practise upon them, or to work and wind them into the doing of wrong.

A REVIEW

Of the Reports, Evidence and Arguments, as Presented in the Case of Trinity Church,

TO THE LEGISLATURE OF NEW-YORK, 1857.

When error once gets the start, as it too often does in this evil world, truth finds it hard to win the race. The passions, the prejudices, the interests of men, are like so many wires spread over the land, vibrating to the electric touch of falsehood. These telegraphs, swifter than Morse's, are the willing abettors of designing men, and carry their messages in every direction. On the other hand, Truth, old-fashioned creature that she is, delighting not in modern inventions, keeps to the old mail-coach, "her swift-sure line," and makes slow progress through the mud and mire, or on the hard road she has to travel after error. But the race is not always to the swift! So even old Trinity, "in her four-wheeled chariot," as a facetious divine lately pictured her, may hope to overtake the nimble-footed rumors, falsehoods, and misrepresentations which designing men have made current, though swifter in their course than Atalanta of old. She would be sure to outstrip them if she would only adopt the expedient of Hippomenes, and throw down her golden apples to stay their course.

It is strange how often the fables of ancient mythology find antitypes in the realities of modern history. We find a counterfeit presentment, a summary account of the whole course of proceedings against Trinity Church, in a fabulous story 1263

years B. C. It is the story of the Argonauts after the Golden Fleece. All these expeditions have had but one object—to *fleece* old Trinity. The ghosts of the old Argonauts have risen up in the numerous progeny of Aneke Jantz and others; and when these have been laid by the voice of the Law, they have started up afresh in the more proper shapes of claimants for ghostly rights long defunct, advocates who appear as "spiritual mediums," to diffuse more widely the solid advantages of the golden fleece, now guarded by the Dragon Corporation of Trinity. But these Argonauts have been shipwrecked in their vain attempt to pass the Scylla and Charybdis of the Senate and Assembly, or crushed between these Symplegades.

If we were believers in the doctrine of Pythagoras, we might think that the soul of Jason had at length passed into the body of the Chairman of a Committee of the New-York Senate, and that under his guidance the new ship Argo, built in the docks of New-York, would soon return from Albany freighted with the golden prize! The potent aid of the party, which seems most interested in wool, is hoped for in stripping from Trinity her golden fleece. If they can only lull to sleep that watchful dragon, the public, the flaying process will soon be accomplished. But all their incantations, though more subtle than those of Medea, cannot overcome the power of Truth. Let, then, her voice be heard.

But has not this voice been heard? Have there not been reports of a Senatorial Committee, testimony of trust-worthy men, and arguments of learned counsel? Yes—there have been all these, and more. Perhaps too much, rather than too little. Truth, like the Roman maiden, beneath the Sabine shields, may be crushed under the multitude of pretended defences. Our design is not to increase the superincumbent mass, but to strip off the useless bucklers, under whose weight she is now hidden, and crushed to the earth. That is the end and object of this Review.

The authority for every word here uttered shall be established by the documents printed and published under the direction and sanction of the Senate. Out of these, in which

there is no small admixture of chaff, let us try to sift the grains of Truth.

A brief glance at the rise and progress of the proceedings in the present case will further our object. It is usual—we might almost say a law established by universal precedent—where Legislative bodies are called upon to act in disturbance of existing interests, which have long enjoyed the quiet protection of law, that the case should be presented in the shape of a memorial, bearing known and responsible signatures. This seems a needful safeguard against improper legislation. Thus only can a Senate be preserved from imposition, and the rights of others be protected from the expense and vexation of needless disturbance. The present proceedings against Trinity Church had not this fair, honest, and righteous beginning. They began on the motion of a single senator. Whether he was impelled by his own interests and prejudices, or some other hand held the concealed wire which gave him impulse, was not known to the Senate, or those most interested. For all the Senate, or the public knew, he might have been the representative of some hostile sect, of Brigham Young, or Fanny Lee Townsend! It was not until after the Report of the Committee in January last, that the Senate, or the friends of Trinity, learned anything of the real movers in this matter. Then it was that they gathered from the witnesses—for in this strange *judicial* proceeding of a *legislative* body, there is no distinction between witnesses and accusers, judges and jury—that the real movers in the present proceedings, were those who had been foiled in similar efforts before the Senate in 1846, and unanimously rejected by the Assembly in 1847! It was wise to keep these parties in the back ground. More recent discoveries have shown, that among the most active movers in this matter, are those not of the Episcopal Church; one of whom, their Goliath of Gath, though not quite so invincible, nor battling openly as this manly champion, owns that he has been engaged for two years past in this work. The sling and stones of simple truth may be too mighty even for the chain armor of party politics!

The first resolutions were passed in the hurry and crowded business of the close of the session of 1855. In their intention

and in the points they touch, as well *as in those they omit,* and in their limitations of time and space so as to exclude some of the noblest deeds and gifts of Trinity, they show a designing and a skilful hand. These resolutions were answered by the Vestry, fully and fairly ; whereupon, again without any memorial from any body, the hidden impulse again acted, and just in the nick of time, and just in the most effective way. A few minutes before the close of the Session of 1856, the Report of the Church was referred to a Committee clothed with vague and plenary powers to act as they like. One long connected with the New-York Argonauts is made chairman, and so the ship Argo, commanded by the Honorable Mark Spencer, once more puts to sea with a roving commission. Well may Trinity tremble for her golden fleece! After cruising around for some months in search of witnesses and other sources of information, they dropped anchor in New-York harbor, in the month of December.

Here they remained and examined witnesses of *their own selection* for parts of five days. Of these witnesses and their evidence, we shall speak hereafter. Some think that the guardians of the golden fleece were indulging in a short nap at this time, lulled into repose by their confidence in the honorable material of which this Committee was composed. On the whole it was, we are inclined to think, better that the Vestry let the Committee alone at this time. Their choice of the witnesses summoned by them ; their selection of the questions asked ; the judicious brevity of some examinations ; the prolix disquisitions drawn out from others who were made to swear not only to their own opinions, *but even to their own interpretations of law* (which we deem rather hard swearing, especially on a Church question), make as plain as daylight the *animus* and intention exciting and governing this investigation. Its end was not truth, but the fleece!

The Committee having, in this judicious manner, obtained just the facts they wanted, on the testimony of chosen witnesses—a soft compound of opinions and judgments, and hearsay evidence, which they sought to harden into solidity by the compression of oaths—evidence which any court of law would

have driven from the judgment-seat—give to the Senate the result of their expedition, in what they call a Report; but which is in fact a mere *ex parte* argument for which they well deserved a fee from their clients, the opposers of Trinity! As this Report of the Argonautic expedition has been completely thrown into the shade by a second more brilliant effort, still more deserving of a fee on the part of their clients, we shall let it rest in its merited obscurity!

One good effect, at least, it had. It thoroughly aroused the Corporation of Trinity Church to a sense of the extent and spirit of the hostile forces arrayed against them. Men of high honor, who have never thought of advancing a selfish interest by the power entrusted to them, who have ever sought honestly and truly to discharge their duty to the Church, they were slow to believe that such a confederacy could be arrayed in this free land, and under this just government, to despoil the trust of which they were the guardians. Men who acted always in the light of day, they were no matches for those who, without fear, but not all *without reproach*, were working against them in the dark. In the voice of this Report comes to them the assurance—"They have taken crafty counsel against thy people, and consulted against thy hidden ones: they have said, Come, and let us cut them off from being a nation, that the name of Israel may be no more in remembrance. For they have consulted together with one consent—they are confederate against thee. The tabernacles of Edom and the Ishmaelites; of Moab and the Hagarenes; Gebal, and Ammon, and Amalek; the Philistines with the inhabitants of Tyre; Assur also is joined with them; they have holpen the children of Lot."

Astonished at the character of the testimony and report, as well they might be, which had thus been brought against her, the Vestry of Trinity Church now demand that her witnesses shall be heard—witnesses who shall swear to *facts* not to opinions; witnesses who shall testify what they do know and what they have seen; who shall not kiss the Word of everlasting truth to give weight to their speculations about the worth of property, in order to place a body of the most honorable men in the

community beside Ananias and Sapphira, in keeping back part of the price of their land! With presumption, we must use the true word, which the dignity of a Senator, not of Venice but of free America, will not excuse, this Committee imply that it was a gracious act of condescension on their part to hear *this side of the evidence*, a wonderful exhibition of patience that they,* for several days, "quietly listened also to the very long arguments of the counsel from whom the objection proceeded." Are they not the movers in this affair; the disturbers of their own peace and quiet? And they even venture to charge the Corporation with regretting "that so little had been made of the opportunity afforded them in the City of New-York, *when the Committee made a written communication to the Vestry before they commenced taking testimony.*" The Vestry replied to this in a "*written communication.*" More than this they could not do with propriety, as all the other witnesses were called by a regular summons. More than this, we suppose, they never would have done, had it not been for the outrageous *ex parte* character of the testimony and report.

Well, this condescending and most patient Committee hear this evidence of faithful and true men—Bishops, Priests, and Laymen, of honorable renown in the Church of God. Nay, we are wrong in saying they *all* hear it! Notwithstanding their professions of Job-like patience, in listening to the side they did not want to hear, there is the usual variance here between the fact and the assertions of their Report. The Hon. A. J. Parker, the learned and able Counsel of Trinity Church, thus speaks to the Committee (Arguments, p. 38): "I regard it as a great misfortune to us, in this case, that some of our testimony was taken in the absence of Mr. Ramsey, and the greater part of it in the absence of Mr. Noxon." These gentlemen, however, may feel happy in being thus relieved from part of the responsibility of this partizan Report. Well, we may suppose the Chairman, who heard it all, and perhaps some friend slightly interested in this case, holding solemn council over the matter. We can imagine the learned Chair-

* Report, p 3.

man *seeming*, as Judge Parker said those ought to *be* who assume the judicial character, "like a piece of blank paper"—when he beholds all this testimony of his chosen witnesses, and his beloved Report demolished by the collision of the new evidence! What shall be done? His Report, the locomotive, and the long train of evidence, are all a hopeless wreck, and the passengers, the witnesses, are so maimed and injured, that they can do him no more service! Fortunately there is at hand a veteran engineer who has driven, for many years, locomotives on the State roads, who has had many a collision, in which locomotive, cars, and passengers, have been smashed up, and who has always managed to take care of *number one*, and escape unhurt, and who, although he ran the train off the track on the last line, has lately been made first engineer on a new road, parts of which are very dangerous. The veteran answers the despairing gaze of the Senatorial engineer with a look of calm assurance. To the question, "What shall be done?" He answers, "Clear first all this rubbish off the track, and fire up another engine." "But we've got to drag that fresh train of evidence after us, and I'm afraid if I put head enough of steam on, it will blow us up!" "Oh, never fear, 'go ahead,' and I'll uncouple the cars which give us any trouble, and leave them behind!" "But then the company will miss the cars, and I will be called to account." "Never fear, they are so much crowded with business just now that they will only look at the locomotive, and never mind the cars."

That some such plan as this was hit upon by the Chairman and his advisers, a further examination will make evident. The last Report quietly drops all the evidence likely to give any trouble, or which is irreconcilable with the former Report and testimony. When troublesome, evidence must be referred to, it shapes and moulds this to fit, sometimes even by the alteration of language! It passes quietly by all the difficulties which would interfere with the desired conclusions; is silent about facts of which it dare not speak, and most loquacious in setting forth its favorite opinions and conclusions. All this we will prove by quotations from the two documents. With this understanding of its past history, we are now prepared to look at the question as it stands plain and clear before us.

Let us take two different views of this question. *First, as a matter of* RIGHT, *let us see in what shape this question should justly have come up before a legislative body.* This will prepare us for a second and more important consideration of *the matter of fact, viz.: the strange form in which this question has actually been presented before the New-York Senate.*

I. AS A MATTER OF RIGHT, *let us see in what shape this question should justly have come up before a legislative body.*

We suppose that it would require no very deep or profound knowledge of Blackstone to settle it as an axiom of common sense, that there should be no intermingling of the *legislative* and *judicial* functions. Legislators should never attempt to clothe themselves in ermine. The question regarding the rightful possessors of the property of Trinity Church, or any other property, is purely a legal one. We hold that it is a question belonging to the Courts, not to the Legislature. But even those who think that it may be forced upon the Legislature, cannot differ from us in the position that its merits are to be determined by the acts of the past, and not by the misdeeds of the present. In this view, we are happy to find that the learned Committee of the Senate fully and entirely agree with us. Among the many points of difference, and their name is legion, we are most happy to discover one of agreement! We trust the following declaration was not lost upon the Honorable Senate:

"The objection which is raised to the proposition to allow 'all the inhabitants in communion,' &c., to vote for vestrymen, for the reason that it may create tumult or confusion, is one of little weight, compared with a right vested under ancient grants and acts. It may become an unwieldy corporation; but in looking at the right of the beneficiaries, we can hardly be called upon to take into account the difficulties which may attend the annual elections."—(*Second Report of Select Committee*, p. 8.)

We accept this from the Committee of the Senate, as a true view of the real question at issue. They here declare that consequences, however disastrous, are not to be considered, because they furnish an objection "*of little weight, compared*

with a right vested under ancient grants and acts." If, as they justly argue, mere *consequences* are not to be regarded, how can any weight be given to *antecedents* which do not touch these "ancient grants and acts?" By their own showing, the only question which could be entertained by the Senate, was whether *a repeal of the Law of* 1814 *was called for, because it unjustly affected "a right vested under ancient grants and acts.*" By the showing of their own Committee, then, it is no mere presumption of private judgment. The proper course of the Senate, when this matter was presented, should have been to appoint a Committee of the most learned lawyers of their own body to investigate this great question of law, and then to give the result in the shape of a report upon these legal points. If such a Committee, sufficiently learned in the law, could not be gathered from their own legislative ranks, the law officers and Judges of the State were easy of access. We do not happen to know to what profession the members of the Select Committee belong, but the manner and result of their labors have not impressed us with any profound veneration for the depth of their legal attainments.

The Resolutions of Inquiry, adopted by the Senate, were the first steps from the direct course. This led to the second false step, the appointment of a Committee, with inquisitorial powers, to pry into matters not within the province of legislation, and which did not, as the Committee itself shows, really affect the question at issue. This was, indeed, a long stride from the straight path of just legislation over freemen, and it has led the Committee and Senate into the maze of a labyrinth, in quest of the truth which was plain and straight before them. If such important interests were not involved—if truth and justice and indefeasible right were not at stake, it would be almost amusing to follow the strange windings and turnings of their erratic course. There is a sort of fascination to the human mind in following the devious steps of error, as lights and shadows diversify its track, giving it the charm of variety; while there is less delight in the straight and even path of truth on which the broad daylight only shines. We admire the justice, and the high-souled magnanimity of this Select Committee

of our Senate, when we hear them nobly resolving to uphold the *right*, fearless of consequences. unterrified by calamities which may ensue, and which the Bishops of New-York and other witnesses have proved will be great. No "tumult or confusion" (p. 8 of Report) of Church or State—no "difficulties," however appalling, shall affright their souls in the steadfast purpose of maintaining "a right vested under ancient grants and acts." Visions of old patriots and Senators arise before us, and we almost hear, in this triple voice of the Committee, the tones of Solon, Lycurgus, and Brutus. But the vision fades, as mortal visions too often do, when we further hear these same voices, in which the noble resolve had been expressed, not to shrink from "right," because of the evil which should ensue, *resting the whole strength of their case on proofs, that because the present holders of this right, "vested under ancient grants and acts," had not wisely used their powers, therefore, it should be conveyed to other hands.* Thus the heroic souls, which were unterrified by future consequences, are overwhelmed by past consequences. Truly, "circumstances alter cases!"

After themselves laying down this just principle, from which there is no escape, that this was a question of *right*, determined alone by *ancient grants and acts*, the Select Committee rest the great burden of their proof upon what? Upon Law—upon the tenor, and words, and provisions of "ancient grants and acts?" Let the evidence of their own selected witnesses, and their own Reports, answer. These documents are accessible to every reader, and they will settle the truth or falsity of this Review. We challenge any reader of these to disprove the correctness of the assertion, that, according to these documents, the merits of the question presented for the decision of the Senate, by their Committee, are made to rest wholly upon the manner in which this trust has been administered by those who have held it since 1814. The "right vested" in the present Corporation of Trinity Church, is to be disturbed by new legislation, not because of "ancient grants and acts," but because of the errors and sins of the Vestry. They have not built free Churches; they have not endowed charities; they have not given lots; they have given too much to high church-

men, too little to the "low;" they have undervalued the amount of their property, &c., &c., therefore they may no longer be stewards!

Between two and three pages of the first Report out of the twenty-seven. are alone devoted to the discussion of the question as one of law and "*right vested under ancient grants and acts*," and this consists mainly of the reiterations of the opinions and views presented by the single witness who testified on this point—the Hon. Luther Bradish. We suppose it was rather hard to get lawyers to give opinions, under oath, as to disputed points of law. Yet, prefixed to his extended views of this question, appear the words, "*Luther Bradish, sworn!*" Another eminent lawyer among the witnesses, Mr. Cambreleng. attempts no such solemn exposition. In the second Report of the Committee, parts of *five* pages out of the *twenty-one* are given to the discussion of the law points, and all the rest devoted to a discussion of the maladministration of the Vestry, and a vindication of the assertions of the first Report on this subject! This appears the more remarkable, as two learned lawyers, thoroughly acquainted with the subject, Mr. Gouverneur M. Ogden, and Hon. A. J. Parker, argued the case before the Committee, on "the questions of fact" and "the questions of law." Both these arguments are distinguished by signal ability, and by the clearness and force with which they place the questions before the Committee. They are brief, terse, and pointed, without one needless word. The Committee hardly deign to notice these, except to say (p. 3) that they were "very long," and they "quietly listened" to them! Perhaps, as the learned counsel did not *swear* to their own arguments and opinions, they were so lightly regarded. They however show, in this treatment, their disregard of the evidence presented by the Vestry. Indeed, this Committee entertain quite an original view of the office of a Report of a Committee. It has been usually understood to be a digested account of the facts and arguments presented before them. This Select Committee appear to consider it as a statement of their own views and opinions, quite independent of the evidence, and the arguments addressed to them! We can

only thus understand, not only their omissions and contradictions of important evidence, as we shall show hereafter, but also their entire silence as to the unanswerable, as we think, arguments on the "questions of law," addressed to them by the learned and distinguished Counsel of Trinity Church.

We are compelled to think, however, unwillingly, that this Committee were influenced by a partial desire to make out a case against Trinity; that they lost sight of their duty as Senators of this great State, in looking after the interests of those for whom they appear as *advocates*, when their Report magnifies and dwells upon every point of adverse evidence, though not bearing upon the question at issue, and passes over, "in solemn silence," the great points of the case, as presented by Judge Parker, in his arguments on "the questions of law." A very brief summary of these unnoticed points will establish this conviction.

We can discover no special reference to the following points of law, made by the Counsel of Trinity Church.

1. That nearly all this evidence, on both sides, is entirely foreign to the main object—the repeal of the law of 1814.

2. That the original charter of 1697 provided that the Wardens and Vestrymen should be elected 'by the majority of votes of the inhabitants of *the said parish*,' in communion of our Protestant Church of England, within our City of New-York.

3. By the act of 1784, in addition to communicants, those now allowed to vote, 'who shall either hold, occupy, or enjoy a pew or seat *in the said church*, and shall regularly pay to the support of *said church*,' &c. The plea that the words, *in said church*, apply to all communicants and pew-holders in the Episcopal Church of New-York, is disproved by the title of the Act, which is called "An Act for making alterations in the charter of the Corporation of *Trinity Church*," &c. And these words are further explained in the second section, where power is given to the Wardens and Vestrymen to call and induct a Rector to *the said church*, so often as there shall be any vacancy therein.

4. That from 1784 to 1812, a period of twenty-eight years,

though from 1793 there were other churches, no one out of the parish voted or claimed a right to vote. That this claim was made, but not allowed, by two or three persons of another parish, in a contested election. This claim led to the application, on the part of the Vestry, for the law of 1814, entitled, 'An Act to alter the name of the Corporation of Trinity Church in New-York, and for other purposes.' "

In this connection, Judge Parker quotes from a letter addressed, on the 12th April, 1812, by the Rector, Wardens and Vestry of St. Marks:—

> We have learned, with regret, that some of our Episcopal brethren assert the claim of a general right, in all the Episcopal Churches in this island, to vote at your elections for Churchwardens and Vestrymen. Whatever color may be given to this claim by any ambiguous words to be found in your charter, we sincerely take pleasure in declaring, that the congregation of St. Mark's, which we represent, have no desire to assert the claim, and that we will, at any time hereafter, cheerfully unite with your respectable body, in an application to the Legislature, if the measure shall be thought expedient, to explain the charter, and confine the right of voting to the congregations of the churches under your immediate government.

5. It is an erroneous impression, that the property of Trinity Church is held in trust for the benefit of others. A careful examination of the charter will show that the property was given to the corporation alone, as its own absolute property. That this erroneous impression on this subject has grown out of the original name given to the corporation. That the grant made to "The Rector and Inhabitants of the City of New-York, in communion of our Protestant Church, &c., is a grant to the Corporation, in conformity with old titles. That exactly similar titles exist in the cases of St. Peter's Church, Albany; of the Church of Fishkill; Grace Church, Jamaica, Long Island, and in the first Church at Poughkeepsie."

6. The original charter, giving power to the church officers "to choose, nominate, and appoint so many officers of our liege people, as they should think fit, and shall be willing to accept the same, to be members of the said Church and Corporation."

7. That a person can be a parishioner in but one parish.

8. That a change in chartered rights cannot be made by the Legislature alone, but requires also *the consent of the Corporation.* This point is alluded to by the Committee. In reply to it, they say that as they have come to a conclusion to introduce a bill to *amend* the act, and not for its repeal—this question does not properly arise."

A reference to the amendment reported, will show that the "old bottles" will hardly hold this "new wine."

9. The lapse of forty-three years is conclusive against any supposed individual claim of a corporator. It is a lapse of time twice that required to bar a claim to real property; seven times that which would bar an action on contract, &c.

Surely these, and many others like them, were points which might well have claimed the special notice of this Committee. Their fair discussion would have suited better the dignity and object of this Report to the Senate than its present composition, from the vague, one-sided, and hear-say evidence and gossip of uninformed and prejudiced witnesses. All such testimony is powerless against the convictions, and the evidence, and the arguments, which must have influenced the Legislature of 1814. It is no disparagement to the wisdom of the present Senate and Assembly to say, that the action of such a body of men, of whom the Empire State may well be proud, carries with it a weight of authority deserving their highest veneration. No urgent calls of interested parties, no special pleadings of partizan committees, should drive them to cast reproach upon the wisdom of the past, of noble patriots whose honored names have even been defamed in this unholy cause. Sooner far should they burst the chains of party bondage, than rudely break the golden links by which memory connects them with the honored dead—the illustrious legislators of 1814. We cannot better refer to them than in the eloquent language of Judge Parker, in his argument before the Select Committee:

At that time, the office of Attorney-General of this State was filled by that eminent jurist and good man, Abraham Van Vechten, and the matter was referred to him by the Assembly for his opinion. He reported as follows: "That he has examined a printed copy of the charter granted in the year 1697 to the rector and inhabitants of the city of New-York, as then established by law, and the acts altering the said charter, together

with the bill referred to in the resolution entitled, 'An Act to alter the name of the Corporation of Trinity Church, in the City of New-York, and for other purposes,' and he is of opinion that the purpose of the said bill will not defeat or vary any existing vested rights under the said charter and acts."

Gentlemen—The Legislature of 1813 that passed that act, was one of the ablest that ever assembled within this capitol. Among its members were Daniel Cady, Elisha Williams, J. Rutsen Van Rensselaer, Josiah Ogden Hoffman, Nathan Sanford, Morgan Lewis, Erastus Root, and Martin Van Buren, the most able and distinguished men of the day—men not likely to fall into the error of invading, by their legislation, the vested rights of any citizen; and there were several others in that Legislature whom I ought, perhaps, to have named in that list. Six of those distinguished men, whose portraits now grace these walls, and who are looking down this day upon our doings, were concerned in the passage of the act of 1814, either as members of the Legislature or of the Council of Revision. The bill did not pass the Legislature in silence: it was discussed and examined. When it came before the Council of Revision, objections in writing were made by Chancellor Lansing, which, on further examination, were abandoned, and finally voted against by their author. Those were honest days, Mr. Chairman, when a public officer, who had been misled by an erroneous impression, might well be expected to acknowledge his error and correct it. I hope, sir, all that honesty has not yet, in the expressive language of the Rev. Jesse Pound, "died out." For this honest and frank correction of an opinion by Chancellor Lansing, his memory has been recently defamed by an editor of a newspaper in the City of New-York, who has disgraced himself before the public, by imputing to the Chancellor that this change of opinion was obtained by corrupt means. Shame upon such licentiousness of the press: shame upon the man who will thus assail the memory of the honored dead—and the greater be the shame if the slanderer be the editor of a newspaper called "religious." A cause must be desperate that requires a resort to such disreputable means.

Having thus shown, in accordance with the declaration of their own Committee, how this great question of *right* should have been presented before the Senate of New-York, and how it was not so presented by their Select Committee, it remains for us to show:

II. As a matter of fact, *in what manner and form it was presented.*

We presume most of our readers are familiar with the judicious Hooker's noble eulogy of Law, wherein he says, "her voice is the harmony of the world," and he represents "all with uniform consent, admiring her as the mother of their peace and joy." All who are familiar with the places where National and State Laws are born, must own that, like other infants, their first entrance into this terrestrial sphere does not add much to "the harmony of the world;" and whatever they may be in

their maternal state, in their nascent condition, they are not the promoters of our peace and joy. The halls of legislation, the cradles of law, are not the chosen abodes of harmony and peace. Disturbing elements within and without are ever at work, in unsettling old laws, in originating new ones. Private interests, party ends, popular passions and prejudices, are busy in the work of legislation. Men of clearest minds, of strongest principles, of most honest aims, are not unaffected by these influences. It is hard to escape the malaria of the atmosphere we breathe. We might well suppose that when an old law was to be changed, or a new one made, the advocates of the measure had only to produce their strong reasons, to allay doubts, to answer objections, and when conviction was brought home to the minds of the Legislators, the act would follow.

Whatever it may be in other cases, this is not the manner in which the case of Trinity Church has been presented to the New-York Senate. It has not, we boldly assert, been presented as a question of *right*, but as a question of *prejudice*, resting almost wholly, as the learned counsel for Trinity declares, *on evidence entirely foreign to the main object of the inquiry*. What has been the design of this cloud of testimony, which has risen around the real question before the Legislature, unless it has been to hide the clear sunlight of truth? The December fog, which gathered round the Committee in New-York, and whose density seemed to increase every day, it was expected would roll after them up the Hudson, and settle around the Capitol at Albany. In its vapory folds, the real question has been obscured, but the sunlight can penetrate the thickest mists of earth.

We have shown that the Select Committee, either straying in this fog which others had raised around them, or wilfully shutting their eyes, had lost sight of the real question before them. We must now show that from *the witnesses* summoned by them, from the *character of the evidence*, and from *the Reports*, the movers of this matter in the Senate, and the Committee, and those who have helped their investigations, have proved themselves only anxious to excite prejudices and uphold interests hostile to Trinity Church. We only ask a fair hearing,

with the records accessible by which we may be condemned if our statements or conclusions are untrue.

1. *The witnesses summoned by the Committee.*

Among these we cheerfully admit, are men of the highest respectability and character, upon whose integrity we would be the last to throw the faintest shadow of suspicion. But no man, however honest, is above the influence of prejudice. As mists cloud the brightest scenes of nature, so prejudice may obscure the clearest minds. It may be the real conviction of these that the property of Trinity Church should be possessed by all the churches in New-York, especially the one to which they belong; they may dislike the policy of the Vestry, or abhor the church principles which prevail among them; they may think this property should be distributed to other objects and in a different method; they may desire to build what they call *free churches*, or endow favorite charities; they may be hostile to the Episcopal Church or to all churches, and have violent feelings against all ecclesiastical endowments, and desire the secularization of this property, and thus have strong prejudices on this subject. They have full right to enjoy their feelings, and their prejudices, and their private convictions, but these do not specially qualify them to be fair witnesses in this important case. Yet this seems to be the rule by which the Committee of the Senate was guided in their choice of witnesses! We might have thought they would have recognized the fact that every disputed question has *two sides*, but the great qualification of their chosen witnesses seemed to be *that they should have something to say against Trinity!* Accordingly, all those who were forward in the movements of 1846 and '47 appear in the list of witnesses. On this head nothing better can be said than the words of Mr. Ogden, in his clear and forcible presentment of the questions of fact before the Committee, (p. 34.)

> And let me in this connection call the attention of the Committee to the witnesses that are supposed to substantiate the charges against the Vestry. Three of them are assistant ministers of Trinity Church, who have come to Albany to explain their testimony, and have vindicated the Church; two are vestrymen, who spoke of matters since explained; eleven others testified, merely, as to the values of lots; Clayton, as to the lettings of pews

in Trinity Chapel; Wiley and Webb, as to immaterial matters; and Dr. Muhlenburg, whose motives no man would impeach, testified, as he himself says, on information merely, so far as concerns any facts in dispute, and certainly under an entire misapprehension of the ability of Trinity Church. Leaving out those I have just named, all the other witnesses are of two classes, and of two classes only. They are clergymen who have applied on behalf of their churches to Trinity Church for aid, and have been unsuccessful in their applications; or they are parties to this controversy, whom it suits now to remain concealed, but who were engaged in the same contest in 1846–47, as appears in evidence, and who, it may be seen by the public prints, are at this moment the most active in the same attempt which was made in those years, with the exception of Dr. Tyng, who, not then in New-York, was not on the former occasions a party, but is now among the most violent. They sought, under cover of the clamor they intended to raise, and the popular prejudice they hoped to excite, to procure on the instant the repeal of the Act of 1814. Actuated, then, by the strongest interest, and, if there is any force in my comments upon the course of these proceedings, attached with all the blame and odium that ought to fall upon the authors of the present attack, they came before the Committee to testify to suspicions, rumors, and hearsay, attributing unworthy motives to gentlemen, if not so high in position, at least as respectable as themselves. That they are gentlemen of respectability and character, I admit, but their positions cannot justify disreputable conduct, though prompted by party prejudice, and narrow, distorted views.

As a striking illustration of the *animus* and strong feelings governing these witnesses, we quote from the letter of the Rev. Dr. Taylor of Grace Church, excusing his non-appearance at Albany, at the summons of the Committee. After expressing "the most perfect respect for the Committee," he adds:

"While I thus freely and sincerely express my respect for your Committee, and my regret at not being permitted to aid them as I best could, in their important labors, yet you must permit me to say, Mr. Chairman, that none of this respect, and nothing of this regret is intended by me to extend to any hired agents of Trinity, at whose instance, as I take it, the summons now before me was issued.

During the meetings of your Committee in this city, every opportunity was afforded to the Corporation of Trinity Church, either to summon witnesses or to propose cross-interrogatories to every witness before your Committee; and if in their superciliousness or reckless negligence they did not avail themselves of their privilege, the consequences must rest upon themselves. The vexatious course they are now pursuing, of attempting to drag gentlemen from their business and their homes at this inclement season of the year, from whom they well know that they cannot obtain one word of evidence in any way useful to Trinity Church, has no other earthly object than to *gain time*, and thus to *defeat, by postponing* one of the most salutary measures of reform that has ever claimed the attention of the Legislature of the State."

The Reverend writer, it will be seen, expresses his "regret at not being permitted to *aid*" the Committee "in their im-

portant labors." The direction of his testimony shows to what these "labors" tend. The "aid" of the witness, "the labors" of the Committee, harmonize in loving concord, only disturbed by thoughts of "the hired agents of Trinity," wickedly "attempting to drag *gentlemen* from their business and their homes," with the vain purpose of getting *the whole* truth out of them, which the Vestry, in their "reckless negligence," thought they would give of themselves. One who desired to "aid" the Committee's pious "labors," feels justly indignant at the very thought that any of their chosen witnesses should be exposed, "at this inclement season of the year," to the rigors of a cross-examination. We wonder it did not strike one of the Doctor's acuteness, that if "gentlemen" had minded "their business," and not been "busy-bodies in other men's matters," there would have been no occasion to drag them from their homes.

Grace Church and others may, in the estimation of some, monopolize all the "gentlemen" of the city, but among those who are stigmatized as "the hired agents of Trinity"—we hope their gentility is better than their pay—are some who stand in this community on as high a level even as the Rector of Grace Church. In the comparison some might be reminded of the familiar dialogue, "Are you the man wat's going to ride?" "Well, I'm the gen'leman wot's going to drive you." So much for the chosen witnesses of this Select Committee.

2. We have now to speak of *the character of the evidence* sought by the Committee. Of course, from what has been said of the chosen witnesses, it was for the most part against Trinity. The sole witness who testified on the question of *right*, which the Committee has declared to be the only question to be regarded, was the Hon. Luther Bradish. His testimony is thus characterized by Mr. Ogden in his argument:

"Controverted positions, disproved over and over again, passed upon after careful arguments by counsel far abler than Mr. Bradish, before the Committee of the House of Assembly in 1847, and overruled by their decision then, are expected to derive new efficacy supported by an oath, when presented at this day as the ground for the decision of the Senate.

"Again, to point out another instance showing the entire unreliability of the testimony of Mr. Bradish, I call the attention of the Committee to the fact that the act of 1814 had passed both houses on the 2d of April, 1813, [see p. 95 of Mr. Bradish's testimony in the first Report of the Com-

mittee,] and the pamphlet of Col. Troup is dated on the 6th of September, 1813, more than six months after the act had passed both houses. Yet Mr. Bradish says, [p. 101 of first Report of this Committee,] that as an inducement to the passage of the Act of 1814, it was urged "as morally certain, that the future increase of the population of the city would strongly recommend to the Corporation of Trinity Church, the policy of dividing its Corporators, and setting them off in separate Churches, with suitable endowments, and to enable the Vestry to do this in a mode free from all legal doubts, was an object of the bill. *The bill was drawn and passed accordingly.*" Yet the truth is, that the bill was drawn, and passed both houses six months before Col. Troup said anything respecting it in the paragraph alluded to, and from which Mr. Bradish derives his authority."

All the other evidence, almost without exception, may be characterized as having nothing to do with the question, seldom or never positive, claiming little direct acquaintance with the facts of which it testifies, speaking on the information of others who themselves heard others say so and so, setting forth opinions and private judgments, and then swearing to their correctness. We unhesitatingly pronounce the greater portion of the evidence taken before the Committee in New-York as the most vague and unsatisfactory body of testimony ever presented before a judicial tribunal. Much of it is the merest gossip and scandal, such as they say a certain sex at a certain age indulge in around the tea-table! Not one of these witnesses was subjected to a cross-examination. There is nothing strong or positive about this testimony, except the oaths, which would have been listened to in a court of law. Yet upon this the Committee base their first Report, bringing the gravest charges against the Vestry, supported by the evidence of those who own that they know little or nothing of the subject!

We have only space for a few illustrations as proofs of the above assertions. The Rev. Jesse Pound swears that (p. 83) "he was considerably acquainted with the proceedings of Trinity Church in managing their fund. I do not consider the trust has been administered in such a way as best to promote the object for which it was given." Or, as we may *expound* his meaning, the Vestry did not advance the glory of God and *the good of man*, in the person of the Rev. witness, by paying off the debts and supporting him in a church which has proved itself to be in an unfavorable situation. Trinity was surely not answerable for the falling off of the congregation.

The Rev. Dr. Tyng swears (p. 86) concerning the statement in the report of Trinity Church relative to St. George's Church—"To the best of my knowledge and belief it is not correct." That the Doctor's "best knowledge" on this subject is none of the best, a poor foundation for "belief" to rest on, is shown by the Rev. Dr. Berrian's positive testimony upon certain knowledge. (See testimony, p. 37.)

The Rev. Dr. Taylor (p. 104) heard "a very worthy minister" say that his warden had told him that he, the warden, had applied to the Comptroller of Trinity Church for aid in their pecuniary embarrassment. The reply was, "We can give you no help, for your minister voted against us at the last Convention." This case would be very strong, and its tragic consequence very lamentable, if the power rested in the Comptroller to give such a reply. Such applications can only be decided by the *voice of a majority in Vestry meeting*. As a conclusive proof of the worth of such kind of evidence, we learn that W. H. Harison, Esq., the comptroller at that time, has denied publicly, over his signature, that such an occurrence ever took place.

Mr. John D. Wolfe (p. 105), formerly a Vestryman, testifies—"Have never seen a list of the corporators; the Vestrymen are not allowed to see it, that I know of." The Rector (p. 35) testifies positively, as a fact *he knows of*, that this list is accessible to the Vestrymen at any time, and open to the inspection of the corporators at the annual elections.

Mr. Stephen Cambreleng, (p. 111), with his usual candor, in reply to the question—"Are you intimately acquainted with the affairs of Trinity Church?" answers—"I cannot say that I am." The same degree of candor would have ensured a similar answer from every adverse witness.

The Rev. R. S. Howland, and the Rev. J. G. Geer (p. 118), testify to the fact, that the generous offer of the former was not responded to by the Vestry of Trinity Church. But the evidence of these excellent and devoted clergymen does not reach the point, as they had no knowledge of, or, at least, do not declare, the reasons which influenced the Vestry in not acceding to the request alluded to Their evidence, moreover, so far as it goes, helps to disprove another charge—that of partiality

to those called "high churchmen." We have never heard the worthy clergymen classed among the so-called, "low."

We might cite further instances, but we must conclude with this which suggests the great radical defect, impairing, if not destroying, the force of almost the whole of the testimony adverse to the Corporation. The Rev. Dr. Taylor clearly points out this defect (p. 104), when he declares his unfavorable opinion is formed "from my *outward* observation of their acts." The acts of the Corporation, in denying requests, and in the application of their means, may appear in a very unfavorable light to outward observation, when this may give no just view of their character. Reason, judgment, common sense, which should guide a body of rational men, whether they be a Vestry or a Senate, are subjects of inward observation. The doors of the Senate are open, and their debates, showing the reason of their acts, are heard ; so the public can, and *will form* correct opinions of their doings. Not so with a Vestry. And we hold, that no evidence, from mere "outward observation," like most of that on which the first Report was based, can fulfil the solemn character of sworn testimony—*the truth, the whole truth, and nothing but the truth !*

Evidence against the acts of a body of men, who sit with closed doors, framed from mere observation, can never convict them of wrong. It does not touch the reasons which induced the outward acts, and by which alone the right or wrong of these acts can be determined. Such, we think, from a careful examination, is the prevailing *character of the evidence* given by the chosen witnesses of the Select Committee.

As a striking illustration of the end for which this evidence was taken, and the manner in which it was drawn out, we are indebted to Gil Blas. There are too many points of resemblance. Our readers may remember that the inventive Ambrose de Lamela, with a view to the fleecing of Samuel Simon, a wealthy Jew, but who had become a convert to the Church, assumed the character of an officer of the Holy Inquisition, Don Raphael that of his Secretary, and Gil Blas that of an Alguazil. The preliminary inquiry was first made of a landlord in the neighborhood, who had some acquaintance with Simon.

"Mr. Secretary, with his paper already in his hand and pen behind his ear, took his seat, pompously, and made ready to take down the landlord's deposition, who promised solemnly, on his part, not to suppress one tittle of the real fact. "So far so good," said the worshipful commissioner. "We have only to proceed in our examination. You will only just answer my questions, but do not interlard your replies with any comments of your own. Do you often see Samuel Simon at church?" "I never thought of looking for him," said the drawer of corks, "but I do not know that I ever saw him there in my life." "Very good," cried the Inquisitor. "Write down that the defendant never goes to church." "I do not say so, your worship," answered the landlord, "I only say that I never happened to see him there. We may have been at church together, and yet not have come across each other." "My good friend," replied Lamela "you forget that you are deposing to facts, and not arguing. Remember what I told you, contempt of court is a heinous offence; you are to give a sound and discreet evidence, every iota of what makes against him, and not a word in his favor, if you knew volumes." "If that is your practice, O upright and impartial Judge," resumed our host, "my testimony will scarcely be worth the trouble of taking. I know nothing about the tradesman you are inquiring after, and therefore can tell neither good nor harm of him, but if you wish to examine into his private life, I will run and call Gaspard, his apprentice, whom you may question as much as you please. The lad comes and takes his glass here sometimes with his friends. Bless us, what a tongue! He will rip up all the minutest actions of his master's life, and find employment for your Secretary till his wrist aches—take my word for it." "I like your open dealing," said Ambrose, with a nod of approbation. "To point out a man so capable of speaking to the bad morals of Simon, is an instance of Christian charity, as well as of religious zeal. I shall report you very favorably to the Inquisition."

So much for *the character* of the evidence before the Committee of the Senate.

3. The Reports.—We now come to the last, but not the least, demonstration of the prejudice and partisan feeling influencing the prominent actors, in this remarkable attempt to legislate property out of the hands of its rightful possessors—the two Reports of the Select Committee. The first was, for the most part, in accordance with the evidence, a fitting super-

structure for such a foundation, and on that it must stand or fall. Built, as we have shown, on the sand of prejudice or partial and imperfect knowledge, and not upon the strong foundation of truth, it could not withstand the force of the "Testimony introduced on the part of the Vestry." As this overthrew all its positions, and contradicted all its statements, by positive assertions of truth; as its infirm Law could not stand up against the strong legal arguments of able counsel, and its false testimony was overwhelmed by the evidence of well-informed witnesses, a new effort was necessary. Then came the second Report, louder than the first, as if the Committee had only used the new evidence for wadding, and rammed it down hard to produce this stunning effect!

As much has been claimed for the evidence of the witnesses against Trinity, because of their high respectability and character, a word may surely be said in behalf of those who have given testimony in her behalf. The Clergy and Laymen who have appeared for her, will hardly suffer by a comparison with those arrayed against her. The greater knowledge, the more certain information which their position secured, will more than counterbalance any alleged partiality on the part of men, whose honor and integrity are above the reach of suspicion.

The "testimony introduced on the part of the Vestry," to counteract the *ex parte* evidence gathered by the Committee, covers some hundred and thirty pages of printed matter. The arguments of the able counsel of Trinity, directed against the assumptions of the *ex parte* Report of the Committee, occupy sixty-six more. The second Report of the Committee, which we should rather call a Reply to the evidence of the Vestry and the arguments of their counsel, is contained in twenty-one pages. The witnesses and the learned counsel of Trinity were made to feel that they were meeting an adverse body, when they came before the Committee, as its Honorable Chairman often spoke of "*our side*," which meant not the side of *truth*, but the side opposite to Trinity. The tenor of the cross-examinations by the Committee made them appear in the light of opposing counsel! We may well ask whether this was a

proper appreciation of the responsible office of those who held the place of Judges? The Hon. Mr. Parker begins his argument with these words, which were not contradicted: "I address the Committee as a judicial body." Their Report to the Senate should therefore have had the impartial character of a judicial charge. It sinks, by an unworthy degradation, into the special plea of an attorney who has to contend against the evidence! The positive testimony of the witnesses on the part of the Vestry, weighs down the light, vague, and negative evidence of the opposing witnesses; so the Committee threw themselves along with their Report, into the scales, to "make the balance true!"

If any one, with an unprejudiced mind, will carefully read the testimony and arguments of the witnesses and counsel, introduced by the Vestry, and then compare this with the Report, their convictions will be strong on this point. Our space will only permit us to give a few samples; enough, however, to show the quality of the whole compound.

The following sweeping statement, which almost makes one *whistle*, will fitly introduce our readers to this Report:—

"It will appear, from a careful examination of the mass of evidence presented by Trinity Church, that every point of importance set forth in the previous Report of your Committee, is here abundantly corroborated."—*Report, p.* 12.

We have tried hard to find some proper epithet, suited at once to the respect we owe to a Senatorial Committee and *to the truth*, to characterize this statement. We dare not use the mildest *euphemism*, so we conclude with the canny old Scot, that "it's mair discreet just to whistle!" If our readers will take the pains to compare this statement with the testimony of the Rector, Dr. Haight, General Dix, and others, they may find it hard to imitate our discretion.

In immediate connection with the above, is the following repetition of a disproved charge:—

"Additional evidence proves the difficulty in obtaining a copy of the list of corporators, only one copy appearing to have been ever given, and that not until after a formal vote of the Vestry. The list is stated to be inaccurate also, Mr. Verplanck believing that "many" names are omitted from the list of persons entitled to be entered."

In what manner this "additional evidence proves the difficulty," will appear by the following, from that of Rev. Dr. Berrian (p. 35):

"Q. Is the list of the corporators of Trinity Church kept in the joint charge of the Comptroller and Rector? A. There seems to have been some misapprehension on this subject. The list is kept in the vestry office, and is under the sole custody of the Comptroller. My only agency in regard to this list is, to make an annual statement on the meeting of the Vestry, immediately preceding the election of wardens and vestrymen at Easter; of the names of the new communicants, which have been added in the interval, and the decrease of the number in the same period, by death, or removal, in order to render the list more accurate and complete. This is done regularly every year, and how one vestryman, if accustomed to be in his place, and giving any proper attention to the business before him, could have been ignorant of the purpose for which it was done; or another, having never seen this list, a privilege which he had a right to demand, but which he never appears to have claimed, is to me a matter of surprise.

"Q. State whether the book containing this list is usually taken to the place where the election of wardens and vestrymen is held? A. I know that it is frequently, if not uniformly, and I believe that it is open to the inspection of any persons present, who may have the curiosity to examine it."

The following "additional" item is from the testimony of G. C. Verplanck, Esq. (p. 96).:

"Q. State whether there is any order of the Vestry prohibiting free access to the list of corporators? A. There is no order to that effect; the superior officers have never refused to my knowledge any one. I cannot say what the clerks may have done. The books lie in places open all day, at least, and the one containing the pew-holder corporators is in the outer office, where pew-rents are collected, and frequently examined by any one I think who has the curiosity The book containing the list of communicant corporators is kept in an inner office on an open desk; I never knew the examination of it refused."

We find the following declaration of Senatorial reporting on this same page 12:

"No contradiction is offered to the statement in your Committee's Report as to the singular pew-leases first given at Trinity

Chapel. The explanation is, in substance, that it was a measure of over prudence, adopted in order to prevent the intrusion of pew-holders who "had no sympathy" with the Vestry. The measure was condemned at the time by some of the Vestry themselves, and is defended now by none."

These are Mr. Verplanck's words, (p. 98) :—

"The motive of those, however, who carried it through, was that of the precautionary prudence against the intrusion of a body of pew-holders who had no sympathies with us or any other church. It was recommended by a committee and approved by a majority of the Vestry. It was repealed before it could have any practical effect."

No reference is here made to "sympathy with the Vestry," but to those whose sympathies were of a secular rather than an ecclesiastical tendency! No notice is taken of the important fact that the effect of the erection of Trinity Chapel was to increase the Church accommodations for the poor, down town. This fact is thus stated by Dr. Haight, p. 7 :—

"The arrangements in regard to the pews at Trinity Chapel, to which I have referred, were these : The Vestry offered to each party holding a pew in either of their three down-town churches, who might be desirous of obtaining a pew in Trinity Chapel, to credit him with the amount of the rent of his pew down town on condition that, while he occupies the pew in Trinity Chapel, the Vestry should be entitled to the use of the pew down town. The pews which thus come into the possession of the Vestry have been thrown open by them for general use, without charge. As the number of pews of this class is quite large, as I have before said, Trinity and St. Paul's have become, in a large measure, free churches, and St. John's measurably so, and these churches are of such a character, architecturally and otherwise, as to secure the attendance of the poor to a much greater extent than has been found practicable in humbler edifices."

We find the following remarkable statement on page 9 :—

"In the Vestry itself, the supposed monopoly of knowledge and power by the Standing Committee is declared not to exist. The Rector testifies that the reports made by that Committee are overruled by the Vestry, 'scores of times;' or as Mr. Verplanck more quietly expresses it, this reversal takes place sometimes and in unimportant matters.'"

The word "unimportant," which appeared in the Report, as printed by the Committee, is said to be a clerical mistake, but even this correction does not alter the tenor or drift of the sentence, or make it in accordance with Mr. Verplanck's testimony, viz.:

"Q. What do you say as to the alleged control of the Standing Committee? A. On some subjects, it is necessarily great —as to the valuation of property, and the terms on which property should be sold—they being familiar from long and daily experience with the value of our property in detail. On other points, such as allowances or gifts to churches, the Vestry form their own judgment, and frequently refer matters back to them for re-consideration; *sometimes, and in important matters*, rejecting their Report, and making or refusing grants, in opposition to their recommendation. A case in point has just been referred to in this examination. It is that of the Church known as St. John the Baptist, a donation to which the Standing Committee had reported against, and which, after full consideration and debate, was granted, nearly to the amount asked."

The Report, after alluding in a very disingenuous style (p. 10) to the very strong declarations of Gen. Dix, the Rector, and various other witnesses, in relation to the influence of "party divisions" in affecting the appropriations of the Vestry, thus concludes in direct opposition to the evidence (p. 11): "Among all the stipends now and of late years granted, the only one that is stated in the evidence, to be given to a 'low' Church clergyman, amounts to $300 a year."

Now, Mr. Verplanck, against whose evidence this Committee seem to have some special spite, had merely referred to the following, as *one* among the appropriations to institutions of charity (p. 95):

"Another stipend is a charity rather than a church donation, to a minister, the Rev. Mr. Cook, the German missionary at Ward's Island and in the city among German emigrants; I think the allowance is $300. I suppose I may add, as there has been an allusion to it in a previous question, that he is a 'low' Churchman; and I never have known of any objection being made to the motion I make every year for the appropriation."

The Committee, in saying that this was the only "stipend" now and of late years given to a "low" Churchman, had forgotten the following testimony of Dr. Haight:

"In looking over the list of parishes. whose churches have been mortgaged to Trinity Church, I find eight, the clergy and lay delegates of which, for a series of years, on all leading questions, spoke and voted differently from the Rector and lay delegates of Trinity. Two of these are mortgaged for $25,000, two for $20,000, one for $5,000, the other three for smaller sums. So, also, in regard to the churches which have received grants of land and money, or annual stipends. I find nearly thirty which have taken the same independent course in Convention, without regard to the course of Trinity. My opinion of the clergy and laity of the Diocese of New-York is such, that I do not think it would be practicable for any Corporation to buy their opinions or their votes. Of the churches last referred to, six received gifts of money and land, and twelve received gifts of money alone, two received gifts of land and a stipend, three received gifts of land alone, six received gifts of stipend alone. My knowledge of the votes of the lay delegates and clergy of the several parishes, is derived from the fact that, for a series of years it became my duty at every Convention to call the ayes and noes on very many questions:

And then in their remarks upon this proportion in the donations, they seem to regard the Diocese of New-York as equally divided between the "the high" and "the low," and that Trinity only doles out a small measure of her bounty among the *lower half*. Whereas the proportion of her gifts bears a very fair ratio to the number of this particular class in the Diocese.

The Report states (p. 14,) that they do not understand the Church to deny the gross valuation of their property, at $6,487,050. The testimony leaves the first statement made by the Vestry unchanged!

The Report declares, (p. 17) "no direct attempt is made to disown or disclaim the representations urged by Col. Troup, in order to obtain the Law of 1814." We have already quoted the strong disclaimer of Mr. Ogden, and now add the following from Mr. J. R. Livingston's testimony, (p. 129.)

"Q. Is it true, as stated in the Report of the Committee, foot of page 16, that Colonel Troup's pamphlet was an inducement to the Legislature to pass the Act of 1814? A. It cannot be true, from the fact that the act was passed on the 2d of April, 1813, and the pamphlet bears date the 6th of September following.

The Report says (p. 18), "Nor does there appear to be any manner in which responsibility can be secured ecclesiastically, any more than civilly." Here is Bishop Potter's testimony, (p. 23).

"Q. Is not the administration of this fund entirely and absolutely separate from all the religious and ecclesiastical care of the Church, as a religious society? A. I think not.

"Q. Wherein does she exercise any control? A. The immediate disposal of this fund is ordered in the presence of and by the Rector, Wardens and Vestrymen, of the parish. They are both immediately responsible to me as the bishop of the diocese, and are amenable to the Church of this diocese assembled in Convention. I do not mean, however, to be understood that I supervise the details of appropriations, or that my assent is essential to the validity of any grants by the Vestry.

The Report (p. 20), *pretends* to derive from the evidence the following arguments, to show the necessity of widening the sphere of the corporators, so as to include among them sufficient wealth and intelligence for the choice of Wardens and Vestrymen!

"Dr. Haight describes the congregation at Trinity as made up of strangers, young men, transient residents, and the poor. Dr. Vinton testifies that the congregation at St. Paul's is composed mainly of strangers, clerks, mechanics, artizans, porters, washerwomen, hucksters, and miscellaneous poor, making their living as daily laborers. Dr. Higbee says that these removals have "gradually and surely deprived Trinity and St. Paul's of their regular congregations, and parochial spirit, responsibility, and efficiency?" and that they "diminish and weaken, in a continually increasing ratio, the constituency of the Corporation, thus destroying the equilibrium of the parish, and undermining its foundations as an institution of public charity." As an unavoidable consequence of this sweeping change, both in the number and the character of the corporators, it has been found impossible to "keep up the standing of the constituency;" and Dr. Berrian excuses the present state of things on the ground that in former times there was "a wider range than now for

the choice of distinguished and intelligent vestrymen," qualified to administer so important a trust.

Now let us turn to the testimony, and see what these Reverend gentlemen really say, for we have learned by sad experience not to depend on the quotations of the Report!

Dr. Haight says (p. 4.): "The congregation at Trinity Church is large, and composed in great part of strangers, transient residents, young men, clerks, &c., and the poor, upon none of whom is any tax, in the form of pew-rent or otherwise, laid for the support of the ministrations of the Church."

There is a slight difference between the words of the Report "made up of," and the language of the evidence "composed in great part of!" There are a few more left of the old sort, permanent worshippers in Trinity yet!

Dr. Vinton says (p. 60.): "At St. Paul's Chapel, the only one I speak of, the congregation is composed of three classes: first, the old families retaining their seats; second, strangers from the hotels, clerks, and sojourners of the city, engaged, for the most part, in mercantile business; third, mechanics, artizans, porters, washer-women, hucksters, and miscellaneous poor, who obtain their living by daily labor."

The Report omits as *unimportant* "the old families retaining their seats," some of whom are not quite beneath the notice even of State Senators.

Dr. Berrian and Dr. Higbee were both speaking of the *past*, not the present state of things. But surely a Senatorial Committee can change *tenses* as well as laws!

We might further show many errors of omission and commission, such as any reference to the fact that three of the Clergy, and one of the Vestry, had corrected the wrong impression given to their evidence; the blank silence, or even more questionable utterances of the Report as to *the gifts, endowments, charities, provisions*, for free churches, for missionaries, for "its own" and other poor, &c. But the whole Report and Testimony must be read, to show how strongly the main drift of the former runs against the current of the latter. The Committee, however, may find themselves mistaken in their estimate of the popular tide!

But, really, we have followed these vestiges of Senatorial creation far enough, perhaps beyond our reader's patience, to show the beautiful concord between the Testimony and the Report! The Committee have used their Senatorial powers to grant these a divorce, and as the parties can never agree, we had better allow them to remain separate. Perhaps, we should rather say, as a Select Committee, they have used their appropriate powers in *selecting* approved extracts from the testimony. Still this does not account for the omission of those parts which bear most strongly upon the great questions at issue. It may be that they believe in a Church without a Bishop! Thus only can we account for their omission, among many other important points, of the solemn testimony of Bishop Potter and Bishop Delancey, as to the fraud which would be committed, and the evils which would arise from the repeal of a law, which by the limitation of time, has become "a statute of repose."

We venture the supposition, we "*know* nothing," that the members of this venerable Committee are citizens of some larger town, perhaps of our metropolis. There is a dryness and a hardness in their Report, which speak nothing of the verdure and the freshness of rural scenes. Thus only can we account for the fact, that our country friends are not warned of the dangers and the evils which this proposed measure will bring upon them. They must be as green and verdant as their own beautiful meadows, if they do not see this. The bounty which has flowed to them, in gentle rivulets and quiet streams, our rapacious and greedy citizens are seeking to dam up and bring into a general reservoir *for city use.* The country may only become awake to this fact, when they see their Croton distributed in the pipes and bath-tubs of New-York. Then, woe to the politicians, and the political party, by whose aid this result has been accomplished! They will know the palsy which, by an eternal ordinance, will ever blight the hand daring to touch that which has been consecrated to the Most High.

Lest some may think that a fervid imagination is trying to excite them by its own dreams, we add the sober testimony given

under the solemnity of an oath, by Bishop Delancey of the Western Diocese of New-York.

"The repeal of the law would be disastrous to the whole Church of the State, outside the city. 1. By raising the question, as to the right of dispersing any of this property out of the city, which is denied by some, but which, the present Corporation has admitted, and has temporarily acted on. 2. By leading, almost necessarily, to the division of all the property among the city churches. 3. By thus cutting off all the feeble country churches from the benefit of this favor. 4. By stopping what has been a stream of most salutary and fertilizing benevolence to religious, charitable, or educational institutions in the rural districts."

We impeach no man's *motives*, but we speak our honest convictions, when we say that an attempt to stop, or to direct the present quiet and beneficent flow of the bounty from Trinity Church, is the act of no friend to the best interests of the Church or of the State. Who are they that are clamoring for this change? Are they the poor, or the needy, whose calls have been despised or neglected? The leaders in this movement are *rich men and rich congregations*, many of whom have already had their full share of property, which has ever been used, according to the best intentions, if not the wisest, for the glory of God and the good of man.

Our humble voice may never reach the ears of a single Legislator. If it does reach them, we say, pause, deliberate well, before you disturb that which has long reposed in the rest of the eternal shelter which Law should throw around Right. Enough already are the disturbing elements in the political atmosphere. Add not to the agitations of the State the elements of deeper excitement. Let the Church and her property alone. The State has enough to do in taking care of itself

THE TITLE, PARISH RIGHTS

AND

PROPERTY

OF

TRINITY CHURCH, NEW YORK,

FROM THE APPENDIX TO

Bishop De Lancey's Twentieth Conventional Address,

DELIVERED IN

OSWEGO, AUGUST 19, 1857.

UTICA, N. Y.
CURTISS & WHITE, PRINEERS, 171 GENESEE STREET.
1857.

I was summoned to Albany, on the 13th of February, on a requisition of a Committee of the Senate, in relation to the affairs of Trinity Church, New York, arraigned before the Legislature and threatened with an invasion of her constitutional rights in the control of her property.

As this venerable Corporation has been often assailed, and as she has applied her funds in this Diocese, as well as throughout the State, most advantageously to the interests of religion and education, and must depend upon the intelligence, integrity, knowledge and just appreciation of legal and constitutional rights of the whole State, for her preservation from the inroads of injustice, rapacity and party, it may be well to put on record, in a note to this Address, for information, a condensed view of the groundless character of the assaults hitherto made upon her Title, her Parish Character, and her use of her Property. [*Bishop De Lancey's Conventional Address, Aug.* 19, 1857.]

TRINITY CHURCH, NEW YORK.

This venerable Corporation has been assailed on three grounds:

I. Her title;
II. The Act of 1814;
III. The value and distribution of her funds.

I. HER TITLE.

Her TITLE has been assailed—

1. By the heirs of Anneke Jans;
2. By the alleged claim of the State.

ANNEKE JANS.

1. Against the heirs of Anneke Jans there have been decisions, by successive Courts, both before and since the Revolution of 1776, and always in favor of Trinity Church.

Anneke Jans was the alleged original Dutch Patentee, under the States of Holland, of part of this property. She married one Bogardus, a Dutch Clergyman, hence called Domine Bogardus. Under her, the claim was set up: and her heirs, innumerable, have since prosecuted it. This Anneke Jans' claim to the property of Trinity Church was founded on these allegations:

1. That the title was not in the Queen when, in 1705, she gave the lands to Trinity Church, but in a private person.

2. That the lands had been granted in the time of the Dutch to Anneke Jans, the original Patentee.

3. That all titles granted by the Dutch were confirmed to the grantees by the Articles of Capitulation, when the Colony surrendered to the English.

4. That Cornelius Brouwer, a decendant of the original grantee, was one of the *true* heirs and owners of the property.

FIRST SUIT.

1. This Cornelius Brouwer commenced an ejectment suit against Trinity Church in 1750, after she had possessed the property about forty-five years; and was non-suited for not bringing cause to trial. He subsequently commenced another suit, which, in 1760, was tried before a special jury, struck for the purpose, in the presence of the parties and their counsel, before one of the Judges of the Supreme Court, David Jones, Esq., of Fort Neck, Queens county, who was commissioned for the trial of this very cause—all the other Judges being members of Trinity Church and interested in the result of the suit. The jury consisted of persons of credit, principally belonging to the Church of Holland. The attorney and counsel for Cornelius Brouwer against Trinity Church were the leading Presbyterian members of the bar, viz: William Smith, Sen., William Smith, Jr., William Livingston and John Morine Scott.

The trial lasted two days and almost two nights. The titles on both sides were fully canvassed; and the jury, after a charge by the Judge, and a recess of half an hour, returned with a verdict in favor of Trinity Church.

Such was the result of the first trial.

2. Col. Malcolm commenced a suit by writ of right in the Supreme Court, to recover the property of Trinity Church, or some of it. The premises, the title to which was not immediately in question, were located in or near Chambers street. The grounds of his claim are not exactly known to me, but it is believed to have been in some way connected with the Bogardus pretensions, probably as an assign of one or more of the *soi-disant* heirs. The cause was tried in the year 1807, in the old City Hall, in New York, by grand assize,* (an ancient and solemn mode of jury trial now disused in this State,) and a verdict was found and judgment entered for Trinity Church.

3. Previous to 1830, one Bogardus, claiming to be an heir of Anneke Jans, commenced proceedings in the Court of Chancery against Trinity Church, to recover a part of the Queen's Farm.

The case was elaborately argued, and decided in favor of Trinity Church, by the late Chancellor, R. H. Walworth. (See 4th Paige's Reports, 178.) It was carried, by appeal, to the Court for the Correction of Errors, where the decision of the Chancellor was affirmed.

* Black. Com. Vol. 2, pp. 190, 341, and Appendix p. vi., Ed. by Christian.

4. Another suit was commenced in 1834, by one Jonas Humbert, also claiming as an heir of Anneke Jans. The complainant's bill was demurred to, and the demurrer was sustained by the Chancellor, and the bill was dismissed. (See 7th Paige's Reports, page 195.) This, also, was carried, by appeal, to the Court for the Correction of Errors, and the decision of the Chancellor was sustained by the unanimous vote of the members of the Court. (See 24th Wendell's Reports, p. 587.)

An issue of fact was afterwards made, in the Bogardus suit above mentioned, which was decided against the complainant by the late Vice Chancellor Sanford, upon full and complete testimony on the part of Trinity Church, and no appeal was taken from the decision. (See 4th Sanford's Chancery Reports, p. 633 ; Id. p. 369.)

5. Nine other suits were brought in the Supreme Court by another Cornelius Brouwer, in 1847, claiming as an heir of Anneke Jans ; and, after the causes were at issue, the plaintiff submitted to a nonsuit.

6. In July, 1851, an action was commenced against Trinity Church by the same counsel in the name of one Kiersted, in the Court of Common Pleas, in the city of New York.

7. And in April, 1852, another action was brought by the same counsel, in the name of the same Kiersted, in the Supreme Court, while the action in Common Pleas was pending.

The plaintiff, Kiersted, was compelled to elect between his actions, and he abandoned that in the Court of Common Pleas.

The case was heard in November, 1854, and decided on the 9th of April, 1855. The bill was dismissed with costs.

All these suits, except those of Brouwer and Humbert, were commenced and conducted by the same counsel, George Sullivan, Esq., who, for twenty-two years, had maintained the litigation against Trinity Church, in the name of Mr. Kiersted or others.

Vice Chancellor Sandford, in deciding in favor of Trinity Church, thus expresses his views :

"And now that I have been enabled to examine it (the case) carefully and with due reflection, I feel bound to say, that a plainer case has never been presented to me as Judge. Were it not for the uncommon magnitude of the claim, the apparent sincerity and zeal of the counsel who supported it, and the fact (of which I have been often admonished by personal application in their behalf,) that the descendants of Anneke Jans at this day are hundreds, if not thousands, in number, I should not have deemed it necessary to deliver a written judgment on deciding the cause."*

* Opinion, p. 40.

THE STATE CLAIM.

2. In 1854, Mr. Rutger B. Miller memoralized the Commissioners of the Land Office, alleging that he and his associates were in possession of evidence, showing that the title to the property called the King's Farm, or Queen's Farm, in the city of New York, held by Trinity Church, having been Crown lands, and never legally alienated to Trinity Church, was vested in the people of the State of New York, and offering to carry on a suit of ejectment against Trinity Church at his own expense, and recover the property escheated to the State, provided that one-quarter of the estate so recovered be given to him.

An agreement was made with Mr. Miller, by the Commissioners of the Land Office, by resolutions, passed June 10, 1854, and August 31, 1854, directing the Attorney General to commence such a suit, on the conditions—

1. That the State should be indemnified against incurring any expense by the suit, by a bond of indemnity of $5000, with surety to be approved by the Comptroller.

2. Provided that proper evidence, showing the title of the State to such farm, should be first shown, and lodged with the Attorney General of the State.

On the 22d January, 1855, the Attorney General reports to the Senate, that Mr. Miller had not fulfilled the conditions, and that no suit had been commenced.

Subsequently, it appears that Mr. Miller did comply with some or one of the conditions, gave the bond with securities, and submitted his evidence of the title of the State to this property to the Attorney General, and through him to the Commissioners of the Land Office, who adopted, March 2, 1855, the following preamble and resolution, viz:

"*Whereas*, The Attorney General having submitted to this Board the testimony in regard to the title of Trinity Church to the King's Farm, which was furnished to him by Rutger B. Miller, and the same being unsatisfactory,

"*Resolved*, That the Resolution of June 10, 1854, directing the commencement of a suit, and that of August 31, 1854, in relation to the Board, be, and the same are hereby rescinded."

Sometime afterwards, in 1855, the Commissioners of the Land Office, on the urgent application of Mr. Rutger B. Miller, renewed the authority and instructions to the Attorney General, to commence a suit to test the title of Trinity Church, on the terms proposed by Mr. Miller. In January, 1856, Trinity Church presented a memorial to

the New Commissioners of the Land Office, declaring that they do not, in any way, object to a suit against them to test their title, but praying that the bargain to give Mr. Miller a portion of the land, if recovered to the State, may be annulled, as being, amongst other things, *contrary to the Constitution*, which appropriates all escheated lands to the Common School Fund, and thus prohibits such payment to Mr. Miller.

The bargain, being deemed unconstitutional, was abandoned.

But the Attorney General was directed to bring a suit before the Supreme Court, to test the title of Trinity Church to her property. Accordingly an action has been brought in the name of the People, and is now at issue and will soon be decided.

On the point of the claim of the State to the property of Trinity Church, the Commissioners of the Land Office, in 1836, consisting of Messrs. Samuel Beardsley, John A. Dix, A. C. Flagg, A. Keyser and William Campbell, put their names to the following OPINION, and establish the following facts:

OPINION.

1. That the Rector, Church Wardens and Vestrymen of Trinity Church in the city of New York, are a valid corporation, with full power to hold the real estate which has been referred to.

2. That it has a valid, subsisting, and absolute title to the lands referred to.

3. That it is entitled to the rents and profits of said lands, without any regard to the amount of income which they may yield.

FACTS.

They establish the following facts:

1. That in 1705, Lord Cornbury, Governor of the Province of New York, in the name, and as the act and deed of Queen Anne, made a lease, by which the lands called the Queen's Farm and the Queen's Garden were granted and confirmed to the corporation of Trinity Church, and their successors forever, to be holden in free and common socage paying the yearly rent of three shillings.

2. That the power of the Provincial Governor to make leases of the Crown Lands, was unlimited in 1705, when the lease in question was made.

3. That the lease was valid and effectual in its inception, and was so regarded during the continuance of the Provincial Government.

4. That the lease of 1705, had been regarded as a subsisting and valid grant, not only by the Provincial Government, to as late a period as 1750, when quit rent was paid upon it, but by the Government of this State in 1786, when the quit rent reserved was finally commuted and satisfied.

5. That the corporation of Trinity Church has held these lands, claiming an absolute and indefeasible title to them from the time of the commutation and

payment of said quit rent in 1786, (then, in 1836, *fifty* years, and now, in 1857, *seventy-one* years.)

6. That if the people of the State had then, in 1786, a right to these lands, that right has been lost by lapse of time, the right of suing for the recovery of lands being limited to *forty* years in this State, and in England and Provinces to sixty years.

7. And that the Legislature of the State have repeatedly recognized the corporation of Trinity Church, as a legal, valid and subsisting corporation.*

It is understood that the question of the title of the State to this property, will be settled at an early date, the cause in which it is involved having a preference over others.

II. THE ACT OF 1814.

Another ground of assault upon Trinity Church is the Act of 1814.

Certain persons, who are members of the various incorporated Episcopal Churches in the city of New York, about fifty in number, claim also to be corporators of Trinity Church in that city, and to be entitled not only to choose officers and control the affairs of their own Churches, but to manage the affairs of Trinity Church, by participating in the election of its Church Wardens and Vestrymen. And they complain that by an Act of the Legislature, passed in 1814, their rights, as corporators of Trinity Church, have been impaired, and they ask and urge a repeal of the Act of 1814, as being in violation of their rights, *after having submitted to it*, without ever appealing to the courts of law to test its constitutionality, *for forty-three years.*

The claim is that members of other incorporated Episcopal Churches in the city of New York are also corporators of Trinity Church, and as such are entitled to vote at its elections.

The following facts and views present the subject:

In 1790, Trinity Church, with her two Chapels of St. Paul's and St. George's was the only Protestant Episcopal Church in the city, and comprehended within her limits all the Episcopalians. There was but one Parish—the Parish of Trinity Church.

In 1793, Christ Church was organized by persons who were formerly members of Trinity Church, but who separated voluntarily from it, erected a house of public worship, and applied to have their delegates admitted to a seat in the Convention of the Diocese in October of that

* Chief Justice Bronson, who had just vacated the office of Attorney General, and as such had officially and fully considered the subject, is known to have been of the same opinion as his successor, Mr. Beardsley.

year. They were incorporated by a special act. They were admitted into the Convention in 1802.

In 1801, St. Mark's Church was organized and incorporated by a special act.

In 1804, the French Church, Du St. Esprit, became connected with the Convention of the Protestant Episcopal Church.

In 1806, St. Stephen's Church was organized and incorporated by a special act.

In 1807, St. Michael's Church, Bloomingdale, was organized and incorporated by a special act.

In 1809, Grace Church was organized and incorporated under a special act.

In 1810, Zion Church and St. James' Church were organized and incorporated under special acts.

The above dates are derived from the Journals of Convention, and are thought to be correct.

In 1813, St. George's Chapel was separated from Trinity Church, and became a separate, independent Parish.

In this year, 1813, the General Law for the incorporation of Religious Societies was passed by the Legislature, covering the case of Church organizations in the Protestant Episcopal Church.

To this date, 1813, none of the corporators of these nine distinct, separate, independent, incorporated Parishes, extending through a period of twenty years, had ever exercised, or legally claimed the right of voting at the elections of Wardens and Vestry of Trinity Church. Nor had the corporators of Trinity Church, as such, claimed the right of voting for Wardens and Vestrymen in these newly organized and independent congregations.

At the period when what is called the Jones and Hobart controversy prevailed, and divided the Churchmen in all the Churches in the city into parties, it was, that the pretension was urged that the corporators of these several new Parishes were also still corporators of Trinity Church, and as such, had a right to vote for Wardens and Vestrymen of Trinity Church, of which both Hobart and Jones were Ministers.

In this year, 1813, the corporation of Trinity Church applied to the

Legislature for the law which was passed by the Legislature in that year, and submitted to the Council of Revision, who were divided on the point, and after satisfaction given to Chancellor Lansing, who doubted on some of its provisions, there was no majority against it, the Council being equally divided, and it became a law in 1814; and hence called the Act of 1814; rendered necessary by the organization of the new Parishes above named, the separation of St. George's from Trinity, and the pretension of some individuals of the new Churches to a right to vote at the Vestry elections in Trinity Parish. The Act was passed on the application of Trinity Church, with full notice and knowledge of all parties concerned, as appears from cotemporary documents and pamphlets. The assent of both parties, the Legislature and Trinity Church, to the modification of the contract, or charter, having been given, there is no foundation for the allegation that that Act impaired the obligation of a contract or was unconstitutional.

The then Attorney General* of the State gave a formal opinion at the time that the Act was not unconstitutional. The constitutionality of the Act of 1814 has been admitted, theoretically and practically, by such Lawyers as Richard Harison, Peter Augustus Jay, Thomas L. Ogden, William Johnson, John T. Irving, David B. Ogden, Alexander Macdonald, Gulian C. Verplanck and John A. Dix and others, who have, since that date, served in the Vestry of the Church.

The Act has been vindicated as constitutional by the late John C. Spencer.

No appeal to a legal tribunal, always easily accessible, has ever been made by any party, individual or congregation, supposed to be aggrieved, to test the constitutionality of the Act, which has been in operation forty-three years.

The following propositions are believed to be sustained by all the facts in the case, and to embody the whole truth on this subject:

1. That the qualifications for voters for officers of Trinity Church, prior to the Act of 1814, were prescribed by, and are to be found in, the original Charter of 1697, and the Act of 1784.

2. That those qualifications are not varied by the Act of 1814, any further than they had already become modified by our Independence, and the adoption of our State Constitution, which abolished the legal

* Abram Van Vechten.

establishment of any religious denomination in connection with the State, and all laws, claims and qualifications growing out of such establishment.

3. That for the purpose of declaring the consequence of this change of circumstances, and for providing for carrying into effect the original intent of the Charter, the Legislature, acting with the consent of the corporation of Trinity Church, had unquestionable authority to pass the Act of 1814.

4. If that Act had never passed, the members of other incorporated Episcopal Churches in the city of New York, could not vote for officers of Trinity Church, because 1st. They do not possess the qualifications required by the Charter of 1697, and the Act of 1784; and 2d. Because if they ever had any rights as corporators of Trinity Church, they have renounced all claims to them, and *have disfranchised themselves.* They could derive, therefore, no benefit from the modification or repeal of the second section of the Act of 1814.

5. The Act of 1814, having been acquiesced in for more than forty three years, by those, if there were any, whose rights were affected, such fact affords a just presumption that they concurred in its provisions.

6. That it would be highly injurious to repeal or alter the third section of the Act of 1814, as it would open sources of dispute, which have been happily and properly closed, and would stimulate litigation by the appearance of a legislative decision upon the validity of the law in question.

7. That if the Act of 1814 was constitutionally passed, it is not competent to the Legislature to repeal or alter it, without the consent of the corporation of Trinity Church.

8. That if applicants for its repeal have any wrongs to redress, the same Courts are open to them to which all other citizens are required to appeal, and there are no obstructions or difficulties in their access to those Courts.

9. And that the merits of the whole matter may be summed up in these few words:

If the Act of 1814 is unconstitutional and void, the Courts will so declare, upon the question being presented to them, and there is, therefore, no occasion for the Legislature to interfere in what are peculiarly matters of judicial cognizance.

If the Act of 1814 is constitutional and valid, then there cannot be any legislative action upon it, unsolicited by Trinity Church and contrary to her will, without an infraction of her Charter, and an obvious violation of the supreme law of the land.

III. THE PROPERTY.

The corporation of Trinity Church has been assailed in regard to the reported value and the use of her property.

In reporting to the Senate, as directed by a resolution of that body, the Vestry declare,

"That they furnish the information requested by the Senate, not as acknowledging the power of the Senate to exact such information, but in order that they may not be deemed to be wanting in respect for your honorable body, or unwilling to display to the public the state of this corporation, its financial condition, and the management, by this Vestry, of its property. They feel satisfied that the facts presented in this paper will remove any unfavorable impressions detrimental to the interests of Trinity Church, which may have been occasioned by representations which, it is conjectured, have induced your honorable body to pass the resolutions above contained. But being charged with the care and guardianship of a large property and important rights, they beg leave, respectfully, to represent that the requiring of such reports as that asked for, by the resolutions of the honorable Senate, is not justified by any legal principle, and is oppressive of this corporation. If there should, at any time, be any just cause of complaint against this corporation, the courts are open and are adequate to afford a remedy; and the entering, by the Legislature, upon an investigation into the affairs of any single corporation, which investigation, if it has any materiality, properly belongs to such courts, is an assumption of their powers, and is burdensome upon the corporation affected, by calling upon it to justify itself, by laborious statements, or production of evidence to a tribunal which has no power to decide. This corporation has, within a few years past, made answer to two similar calls for information from the houses of the Legislature, the one contained in the resolutions of your honorable body, of the 9th day of March, 1846, and the other contained in the resolutions of the honorable the House of Assembly, of March 4th, 1854. There is no provision in the charter of this corporation, and no general statute requiring it to report to the Legislature, and because this Vestry have found the answer to these repeated requirements expensive and onerous, and believe them to be an infringement of the chartered rights of Trinity Church, they humbly protest against the right of the Legislature, or either branch of it, to call for reports from this Vestry relative to the condition or affairs of this corporation."

In reporting, however, to the Senate the estimated value of her property, the corporation of Trinity Church presented *its assessed value as assessed by sworn assessors* for taxation, and so declared in their report. The property thus assessed being under lease, Trinity Church has only a reversionary interest in it.

"In reference to the inquiry as to the estimated value of each lot and parcel of land, owned by this corporation in the city of New York, the Vestry annex hereto a schedule, showing as to each lot its situation; its value with the

buildings thereon (the property of the tenants) *as assessed in* 1855, *by the officers of the city for the purpose of taxation*, (except such as are exempt from taxation, which are particularly noted;) the estimated portion of such value for the buildings; the net value of the lot deducting the buildings, irrespective of the leases; the annual ground rent reserved to the Church; the expiration of the term, and the present value of the reversion and of the ground rents to the Church. From this schedule it will appear, that the total value of the property embraced therein, irrespective of the leases and of the buildings, is $2,668,710."

On the value of the property and the mode of valuation, in its report to the Senate, the following is the statement, under oath, of Gulian C. Verplanck, Esq., one of the Vestry:

"I had no hand in making out the report made to the Senate of the value of their property, but I think that no other mode of estimation than that of the sworn assessors could have been made and agreed upon. This arises, in my judgment, from the Church interest being a reversionary property, falling in at different periods, with comparatively a small income. As to the most valuable and saleable property in the lower part of the city, which has recently risen, even since the making of the report, the high prices chiefly for commercial purposes, my own experience and observation convince me, that it is impossible to calculate, with any reasonable ground of reliance, as to its reversionary value for six, eight and ten years, and longer periods ahead. I speak both from observation and experience on this subject. I have been a member of moneyed institutions, which lend on mortgage, in the city of New York; such as the Life and Trust Company. I have observed the great fluctuations and fall of value in parts of the city, such as Pearl street, Hanover Square. I have examined many bonds and mortgages of this character, while inquiring into the value of property. I have myself had the management and control of property in Stone street, Pine street, &c., which in 1835–36, was of great value, but has now fallen one-half, or nearly one-half its value at that time, owing to the transition of certain branches of commercial business from that locality to Broadway, and the streets adjoining it. I could not, therefore, myself, as the same occurrence may take place, estimate a high reversionary value ten or fifteen years hence, from present prices. The Astor lease, forming a large portion of the property of the Church, falling in in ten years, is a mere reversionary property, producing, at present, only $269 per annum. Such property, when offered in large amounts at a time, would not, probably, command the bids or offers of any but capitalists expecting to purchase at a low rate, and except under very favorable circumstances, would hardly bring its reversionary value, calculated on the assessed value, and perhaps not so much. I form that judgment with the full knowledge, that where the property is not encumbered with a lease, it might sell for more than the assessed value. For these reasons, *I think the assessed value, the only one that the Church could properly give, or the Vestry have probably agreed upon.*"*

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* The astounding revulsion in Banks, Stocks, Rail Road Securieties, City Lots, and Farms, now (in October, 1857,) affecting the City and State of New York and the whole country, supplies striking and lamentable evidence of the uncertainty of the value of all city property, and should silence the tongue of exaggeration in regard to that of Trinity Church, while it must vindicate the declaration of Mr. Verplanck that the *assessed value* is the proper value for Trinity Church to report. Divine Providence, by a mere panic, has almost prostrated the value of city property, sunk wealth to want, rebuked pride, luxury and self-elation, and invoked us all, by a voice that is felt, to trust not in uncertain riches, but in the Living God. "It is the Lord's doings, and is marvelous in our eyes."

The Vestry of Trinity Church have given and appropriated from the year 1750 to 1855,—

	LOTS.	IN MONEY.
To Churches in the city of New York,.....	122	$493,125
To Churches in fifty counties in the State,.....	24	228,294
To the advancement of religion, public purposes, Institutions of learning, support of the Episcopate, Church Societies, infirm clergymen, widows of families of deceased clergymen, since 1748,.....	172	286,111

"Thus has this corporation administered its estate, freely granting it for the spread of religion in all parts of the State for the support of ministers of the gospel, and the succor of their families, and for the aid and endowment of institutions of learning. It has, for these purposes, paid and appropriated in money $1,287,392 75, and given a large number of lots of land; *by these means diminishing its property to one-third its original extent.*"

The Hon. Daniel D. Barnard has thus declared his opinion under his name:

"I venture to say that no man of common understanding, before wholly uninformed on the subject, could go through the testimony in the case, taking the whole of it together, and passing by the Reports, without coming to the conclusion, after allowing for all errors of judgment, and feeling, perhaps, grave doubts about the wisdom in all instances of the measures and methods of administration, and of charitable distribution, which had been adopted, that it is doubtful if another religious foundation, as amply endowed as this, could be found in the world, where for a full century and a half together, and coming down to the present hour, there had been manifested so much of absolute purity, of entire disinterestedness, of unswerving integrity, of generous and humane consideration, and of uniform action, performed under a high and noble sense of moral and religious obligation, as have characterized the Vestry of Trinity Church in the conduct of the affairs of that corporation."

Against the charge that the Vestry, in granting aid to Churches, have acted under the influence of party feeling, the Hon. John A. Dix, one of the Vestry, thus testifies:

"I feel it to be my solemn duty to repel this imputation, by stating my own experience. I have been more than seven years a member of the Vestry, and have been on terms of the most unreserved and confidential communication with my associates. I have discussed with them the propriety of granting and declining applications for aid, not only at nearly all the meetings of the Vestry, but in many cases in private interviews; and no reference has ever been made by me or by any one of them, at any meeting, official or private, to the party views of any of the Rectors, or religious societies presenting such applications. The party divisions, which have existed for several years in the Episcopal Church, and which have not only impaired its capacity for doing good, but dishonored those on both sides who have been active in keeping them alive, have never been a subject of discussion at any meeting of the Vestry which I have attended; nor have they been alluded to in connection with applications for aid. I have taken a deep interest in several applications myself, and have, perhaps, had some influence in securing grants of money to the applicants, and in no instance have I inquired what were the particular views of the Rector of the Parish to which they belonged. I do not even know to this day whether they are High Church or Low Church. The only inquiries ever made were in regard to their pecuniary and social condition and their need of assistance; and these considerations, together with the ability of Trinity Church at the

time to make the grants asked for, and the probability that the grants would be effective for the objects in view, have been the only ones which have guided me in my votes. I believe the other members of the Vestry have been equally free from the influence of party motives. My belief is founded upon my knowledge of them as enlightened, conscientious and liberal men, and upon all they have said and done in my presence through a familiar association of seven years. I cannot be supposed to have been deceived in regard to their principles of action, but upon the hypothesis of a depth of dissimulation on their part, and an obtuseness of perception on my own, too gross for the largest credulity."

The charge that Trinity Church takes mortgages on the Churches to which her aid is extended, was met by testimony—

That she took such mortgages to prevent the property from being alienated from the Church.

That she never foreclosed any mortgage thus taken.

That she never required interest to be paid on them.

That she never received any thing on their account, except when the property was sold by others, and she received back her advances to be applied to other feeble Churches.

William Moore, Esq., one of the Vestry, testified thus to the mortgages:

"They were taken with a view to prevent that property being lost to the Church at large. In case of a foreclosure of a previous mortgage, or some embarrassment to the Church, that this money advanced by Trinity should return to that Church to be distributed again, or returned to the same Church. I never knew of any case of a foreclosure of a mortgage while I was in the Vestry, nor do I believe there ever was one."

Mr. Samuel F. Skidmore, one of the Vestry, testified thus in answer to the question, what is the object in taking mortgages when a grant is made?

"These Church mortgages are taken and held by Trinity Church, not for their own private benefit, but (and in good faith) for the benefit of other Churches. They never have demanded, nor do they expect to demand, either the principal or interest of these loans, except in occasional isolated cases; such for instance, as the foreclosure of a prior mortgage, or to save the Church properties from being disposed of improperly, or for other than Church objects and purposes. The parties obtaining these loans, (which they look upon virtually as gifts,) do not object to giving such mortgages on their Churches, but generally view the requirement of them as a wise and conservative measure for perpetuating the original object and intention of the grant. The character of these mortgages is so well and so generally understood, that an attempt to foreclose any one of them, on the part of Trinity Church, for the purpose of restoring the amount again to their own coffers, would be regarded as little short of absolute dishonesty. If the same objects aimed at in these loans, could be equally well secured in some other way, I confidently believe that no desire on the part of Trinity Church to keep alive a sense of obligation to her on the part of the recipients of her favors would, for one moment, stand in the way of the change. For the foregoing reasons, I think that the principal and interest of

those mortgages, (amounting to $571,952,) ought not to be considered as part of the wealth of Trinity Church, nor be made to show a *seeming intention*, on her part, to withhold from the honorable the Senate, essential and important facts respecting her property.

"Q. Has the Church ever foreclosed any of these mortgages? A. None to my knowledge."

In answer to the same question, BISHOP DE LANCEY testified in regard to his Diocese,—

"Q. Has Trinity Church ever foreclosed any of the mortgages on Churches, or ever required the annual interest on them to be paid to her? A. I have never heard or known of any such case in Western New York or elsewhere. I do not usually consecrate a new church edifice, until the Vestry certify that its debts are paid or reasonably provided for. A mortgage to Trinity Church, on which neither principal nor interest are demanded, I do not consider an obstacle to the consecration of a new Church, but as additional security against its alienation from its holy objects.

"Q. Has any Church in your diocese, to which Trinity has made a grant of money without taking a mortgage on Church edifice, ever been lost to the congregation or diocese? A. Yes; a Church on which Trinity Church took no mortgage for a grant of $500, was sold for debt, and the congregation dispersed. A mortgage to Trinity Church would have saved it, or at least saved the $500 for the use of the diocese elsewhere."

The views of BISHOP H. POTTER, of New York, on the subject of the mortgages taken by Trinity Church, for her appropriations to assist the Churches, were thus presented:

"Q. What is your opinion of the effect of the course of Trinity Church, in giving her aid to Churches in the form of loans upon mortgages, rather than in the form of absolute grants? A. Those loans were absolute grants in reality; nobody ever supposed that the interest or the principal would be called for by Trinity Church. They never have been, in a single instance, although the cases have been very numerous, in which land mortgages have been given. When I consecrate a Church, I always wish to know whether there be any debt. I never regard a mortgage given to Trinity Church, in the light of a debt. I have never perceived, I do not believe, that such mortgages, in any way affect the independence of ministers or laymen. It is very common, indeed, to see the minister and laymen of a Church, subject to a mortgage, voting against measures favored by Trinity Church. In convention, I doubt whether any one remembers or reflects whether mortgages exist in particular quarters, or not. The effect of these mortgages has, I have no doubt, been important in preventing the property of Churches from being sold and alienated from their sacred use. And this, I have always understood, was the sole object of Trinity Church in requiring them."

The Vestry of Trinity Church have always maintained, that they hold the property granted by Queen Anne, not as a trust estate, but by a full, independent, bona fide, untrammelled ownership, and that they are not obliged by any trust to confine the application of it exclusively to her own Parish, or to the city of New York, but may extend it to the country Churches and objects.

There are no terms implying trusteeship in the lease of the Queen's

Farm, made by Lord Cornbury, November 23, 1705, in the name and as the act and deed of Queen Anne, but the lands "were granted and confirmed to said corporation, to the use of the Rector and inhabitants of the said city of New York, in common with the Church of England, as by law established, and their successors forever, to be holden in free and common socage, and paying the yearly rent of three shillings." The power of the Provincial Governor to make leases of the Crown Lands was unlimited, in 1705, when the lease was made. This lease, therefore, seems to have been in its inception, and to have been [illegible] of the Provincial Government. [illegible] erroneous, but by the Government of this State, in 1705, reserved was finally commuted and satisfied.

If Trinity Church holds this property *in trust*, she must abide by the terms and limitations of the trust. But if she holds it as her own, under the Charter, she may use it as her own, under the terms of her Charter, and in this view she has acted with the property from the beginning, taking care of her own Parish, and aiding other Churches and objects, both in the city and country.

On the subject of the number of the corporators of Trinity Church, the Hon. D. D. Barnard states his views in these terms:

"Another point made in the reports relates to the comparatively small, and as the committee seem to think, gradually diminishing number and character of the corporators of Trinity Church. This is specially referred to in the second Report, and urged as a reason for increasing the number of corporators, and of course, by inference, as a reason why the Senate should declare that the members of other Parishes in New York, legal corporators or not, shall be corporators of the Parish of Trinity. I do not think, in my life, I ever heard a more daring proposition. When the corporators of Trinity Church, fail, it will be time enough for the State, but not through the Legislature, to look after the estate of that corporation; and when the question, and the only question submitted by the committee itself, in the bill they have brought in, on the disputed point under consideration is, whether certain persons are or are not legal corporators of Trinity Church, to urge the Senate to declare them to be so—to bring in, in truth, an army and mob of corporators to seize upon Trinity Church and her possessions—not on the ground that such is their legal right, but upon the consideration that it would be well, for economical and prudential reasons, to increase the number of corporators, surpasses anything I have yet heard of, in any official quarter in this country, in the spirit of bold agrarianism.

"Trinity Church is a religious corporation. She possesses a large estate devoted to pious uses. She is a Parish in which the work of the Christian ministry is carried on as in other Parishes, only on a much larger scale than in any other Parish in this country. She has four Church edifices instead of one, in which religious services are performed by nine ministers. The legal custody, care and management of all her property, and all her affairs, both temporal and spiritual, rest with certain legally constituted and elected officers; these are the Rector, two Wardens and twenty Vestrymen. The Wardens and

Vestrymen are elected annually; they call and induct the Rector, and choose the assistant ministers. Up to the present time, the Parishioners of Trinity Church have elected the Wardens and Vestrymen, just as the Wardens and Vestrymen of every other Episcopal Church in the State are elected by its own Parishioners. The Parishioners of Trinity Church entitled to vote, are a little over three hundred. There are fifty other legally constituted Parishes in New York, and the Parishioners of all these entitled to vote for Parish Officers, taken together, are probably not less than eight thousand. If these, or any number at all like it, are to be brought in to vote for the Parish Officers of Trinity Church, the consequence is apparent. The control and government of the Parish of Trinity will be taken out of the hands of the Parishioners of Trinity; the Parishioners of other Churches will elect her officers; the government of Trinity Church, the property, the sacred edifices and the ministers of Trinity Church, will all be in the hands and under the control of officers whose constituency will be, not the Parishioners of Trinity, but the Parishioners of other Churches. The outside constituency thus proposed to be brought in, is a constituency antagonist to that of Trinity Church. It is so designed. The object is to take possession and control of the property of Trinity Church, and this is to be done by taking possession of the government of the corporation, involving of necessity the control, direction and management of all her affairs, internal and external, religious and charitable, spiritual and temporal."

The policy of endowing Churches with land, as prevalent before 1814, is contrasted with the policy of making gifts in money, pursued since that time, by Mr. G. M. Ogden, one of the Vestry, in these terms:

"Prior to 1814, there were grants of 318 lots, by means of which were endowed three charitable and educational institutions—Columbia College, Trinity School, and the Society for promoting religion and learning; three amply endowed Churches—St. Mark's, Grace, and St. George's; and twelve other Churches to which were given lots of land in much smaller proportion than to the three Churches last named,—thus making eighteen Churches and institutions benefited by the gift of 318 lots.

"One thousand and fifty-nine lots have been sold by Trinity Church, and out of the proceeds derived from the sale, she has given away, for the benefit of other Churches and institutions, $1,287,392.75. Suppose these lots had been given for endowments—if these were as liberal as those made before 1814, the 1059 lots would have served to endow, at the most, forty-four Churches and institutions, and indeed it may be doubted, whether they would have sufficed for that purpose; for the three Churches above mentioned to have been amply endowed, were not only given land, but were built by Trinity Church, and the twelve other Churches were only assisted, by the lots granted, to a very limited extent. If, on the other hand, lots to the value of $50,000, a small allowance for an endowment, had been given to so many Churches as the last mentioned sum would have sufficed for the endowment of, on Mr. Bradish's principle, not more than twenty-five Churches could have been made independent through these 1059 lots.

"But what has Trinity Church accomplished by the sale of these lots, and by granting to other Churches and institutions the moneys received from the sale? By this policy, deemed so unwise, St. George's, Grace and St. Mark's Churches have been built; more than two hundred other Churches have been aided, upwards of one hundred and fifty of them in the country; Hobart Free College, at Geneva, has received an endowment of $3,000 a year, on the condition that it shall be free to all; the Theological Seminary and Missionary Boards have been assisted; an Episcopal residence has been purchased; infirm clergymen and families of deceased clergymen have received annuities and other assistance: and these are only some of the results of the change of policy which has been complained of.

"The object of this change of policy is manifest. It was to distribute the fund, to be derived from the gradual disposition of the real estate, amongst many Churches and institutions, doing for each only what it could not do for itself, and looking to the probable beneficial results in each case, rather than to make a few favorites rich and independent; to encourage individual effort by timely and judicious aid in every quarter, in city and country. If the other policy had been followed, the property would have been distributed long ago, without provision for the future, and Churches coming into existence afterwards could have had no help."

The great and good work in which Trinity Church is now earnestly engaged, is thus developed by the Hon. JOHN A. DIX, in whose suggestions to the Vestry, it is understood to have originated:

"It is well known that the greater part of the city below Chambers street, is devoted to purposes of business, and that private dwellings have given place to stores and warehouses. The wealthy portion of the population has gone to the upper districts, and most of the Churches of all denominations have followed them. The North Dutch, which is still engaged in useful spiritual labors in the neighborhood of St. Paul's, the Methodist Church in John street, unhappily rent by internal strife, and St. Peter's, a Roman Catholic Church in Barclay street, still maintain their ground. With these exceptions, Trinity Church, St. Paul's, and the Church in Beekman street, formerly St. George's, purchased and now entirely supported by Trinity, stand alone in this great deserted field of labor. The same process is going on above Chambers street, and in a few years, there will, in all probability, be no Churches below Canal street, but those of Trinity Parish. Notwithstanding this exodus of wealth, a vast population, the inhabitants, in great part, of alleys, garrets, and cellars, estimated to exceed one hundred and twenty thousand souls, occupy the field it has abandoned; and if Trinity Church had followed the same instincts, which have drawn off the other religious societies of the city to its more attractive districts —if she also had abandoned to their fate the poor and necessitous, whom wealth and fashion have bequeathed to her, the lower part of the city would have presented an example of religious destitution, unparalleled in the history of Christian civilization.

"The design of the Vestry of Trinity Church in this movement was to rescue the lower part of the city—that portion which has not only an immense body of resident poor, but which receives into its bosom the greater part of the destitute who seek a refuge here from hardship in other countries—to rescue this combined mass of permanent and temporary indigence from the utter spiritual abandonment with which it was threatened by the removal of those, to whose wealth and liberality it had been accustomed to look for sympathy and pecuniary aid, to more congenial districts. The plan comprehended not only the spiritual instruction of the adult inhabitants of this deserted district—once the seat of nearly all the wealth of the city—but the education of their children, and, to the extent of the means of the corporation, a ministration to their temporal wants. Trinity Church, with its endowments, fortunately growing more valuable with the progress of the city, was to stand in the place of the individual opulence, which has fled from a district where its tastes could no longer find suitable fields for indulgence, and established itself in others, where it has rivalled Genoa in its streets of palaces, and where in all its appointments and manifestations of in-door and out-door life, there is a concentration of refinement, luxury and splendor unequalled, excepting by a few of the great capitals of Europe.

"It seemed to me to have been among the designs of Providence, that Trinity Church should have been planted in this great district, ready, with her ample endowments, to make provision, when the emergency should arrive, for those whom individual wealth has left upon her own hands. I hold this to be the

great mission of Trinity Church; and I have pressed on the Vestry, on all proper occasions, the duty of preparing for it, and of commencing the work with the utmost diligence. Though the plan has not been formally adopted, it has been practically acted on; and it is due to my associates in the Vestry to say, that they have responded to all appeals in behalf of the destitute districts below Canal street, by as liberal an expenditure as the income of the corporation, crippled by a heavy debt and burdend by large annual contributions to other Churches, has admitted. The Clerical force of the Parish has been nearly doubled; the Sunday Schools have been greatly enlarged; Parish Schools for the gratuitous education of children have been established; by far the greater part of the pews in Trinity Church, one hundred and four out of one hundred and forty-four in St. Paul's, and a large number in St. John's, are free; efforts have been put forth to bring into the Church those who have not been accustomed to attend any religious worship; Trinity Church is opened twice a day throughout the year for divine service; a mission office has been established to receive applications for aid; lay visitors are employed to seek out want and relieve it; missionary agencies have been instituted in connection with the Commissioners of Emigration; the whole lower part of the city has been virtually made a field of missionary labor; and a degree of energy has been infused into the ministrations of the Church, temporal and spiritual, which compensates in a great degree for the lost support of the religious societies removed to other districts. In the midst of all this earnest effort, with five of her Clergy residing within this neglected field of labor, conversant with little else than its destitution, and devoting themselves to the relief of its wants, Trinity Church finds herself assailed as faithless to her trust by those, for the most part, whose lives are passed amid the social amenities of the upper districts and in an atmosphere redolent with indulgence and luxurious ease."

Of the aid extended by Trinity Church to feeble Churches and Educational objects in Western New York, Bishop De Lancey testified as follows:

"Q. Has Trinity Church, New-York, aided any of the churches in your diocese? A. Yes, I learn from the publications of the rector of Trinity Church that she has aided altogether, since 1807, in Western New York, about 77 churches, being 6 before the year 1814, and 71 churches since that year. Some were aided twice. Of those 71 aided since 1814, about twenty have been aided since I became bishop."

"Q. Has Trinity Church made any grants for educational purposes in your diocese? A. Yes, a most important and liberal one to the value of $50,000, to Geneva college in 1851. The grant was made when Geneva college was in a disastrous and critical condition, occasioned by the State withdrawing unexpectedly, under the two year provision of the new constitution of 1846, in regard to appropriations, her annual grant of $6,000 to the college, leaving nearly $3,000 unpaid, (and still unpaid)* a debt upon the college trustees, who were without means to pay the professors, all of whom but the president resigned their places, and the students diminished in number from eighty (before the withdrawal of the State grant) to thirty-seven. When the prospect of private endowment to maintain new professors was dim and gloomy, and the very continuance of the college, dubious, in this emergency Trinity Church was asked to endow the college, which she did in 1851, by a grant of $50,000, the interest at six per cent. to be paid annually until the principal is paid on the expiration of the Astor lease, as I understand, on the condition that the college made in its literary department a *free college forever*, to all students who come to it, and that it take the name of Hobart Free College, by act of the

* The Legislature has since voted this sum to the college.

Legislature. Since which time the faculty have been sustained, and the students have increased from thirty-seven to ninety-six, a larger number than it ever had under the State grant. And $22,000 additional endowment, viz: a professorship of $15,000, a fellowship of $5,000, and two scholarships of $1,000 each, and several benefactions have been received from private sources, not one of which endowments, I am convinced, would have been made without this grant from Trinity Church.

The Charter of Trinity Church was granted in 1693, but owing to political and sectarian opposition, it was not carried into effect until 1697, when it went into operation, and the following persons constituted the first Wardens and Vestrymen:

Wardens.—William Wenham, Col. Robert Lurting.

Vestrymen.—Col. Caleb Heathcote, William Merret, John Tudor, James Emott, William Morris, Thomas Clarke, Ebenezer Wilson, Samuel Burt, James Evets, Nathaniel Marston, Michael Howden, John Crooke, William Sharpas, Lawrence Read, David Jamison, William Huddleston, Gabriel Ludlow, Thomas Burroughs, William Janeway, John Merret.

The list of names of those who have since served the Church in the office of Wardens and Vestrymen comprises six Mayors, seven Recorders, nine Aldermen of the city; three Chief Justices of the State, five Judges of the Supreme Court, three Secretaries of State, three Attorney Generals, six Members of Congress, two Governors of the State, several distinguished officers of the Army, sundry eminent Lawyers, Physicians and Merchants, and many prominent men in other lines of life.

The affairs of Trinity Church have been in the hands of such gentlemen as these for a period of one hundred and sixty years, amid every kind of fluctuation—political, civil and religious—and they, and their descendants, may safely challenge the City, the State, and the whole land, and the entire body of the Church in this country, to present to our view a wiser, safer, more judicious, more useful, and more unsullied management of a religious corporation of similar magnitude and relations.

The Clergy of Trinity Church have not been pampered with extravagant salaries.

The Wardens and Vestrymen have not enriched themselves by the management of her property.

There has been no unrighteous speculations in the use of her means.

There has been no application of her property to objects alien to her Charter or her character.

No political intrigues or schemings, whether in the State or Nation, have ever been essayed by her means.

No Court of law and no Legislature has ever sanctioned any of the alleged claims to her property or her franchises when they were brought to the calm, cold test of law, truth and fact.

Whatever good others claim they would have done with her property, she can look upon the magnificent Churches, with which her wealth has adorned the city; the large congregations sustained by property whose origin came from her hands; the two Colleges endowed by her munificence; the youth she has aided in their education for the Ministry; the many Churches throughout the State that would not have existed without her timely gifts; the fifty Churches in the city more or less aided by her, and the two Dioceses, adorned by two hundred Churches, who have, untrammelled, tasted of her munificence; and she may, in self-defense, and without boasting, proclaim:

These are witnesses that, not for myself, but in the name of God, for his Church, and for the moral, spiritual and eternal good of man, I have endeavored, honestly, faithfully and usefully, to employ the means committed to my charge.

I am, myself, under no personal obligations to the Rector, Wardens and Vestrymen of Trinity Church, for honor, office or emolument. I once served, when a Deacon, for three months, as a temporary assistant in the Parish. My own official applications, as Bishop, for aid to feeble Parishes, in my Diocese, have not always met with success.

My great-grandfather, Colonel Caleb Heathcote, heads the list of the first Vestry of Trinity Church, in 1697. My grandfather, Lieutenant Governor De Lancey, lies interred beneath her walls. My father, and other relatives, have been the friends and supporters of the corporation. I put on record the declaration, that I have seen and heard nothing to destroy my confidence in the purity, integrity, fidelity and wisdom of the management of her estate, enlarged not by the wit or contrivance of man, but by the Providence of God, pre-eminently blessing the Goverment, State, and city to which she belongs.

I have made this compilation of facts and views, that the case of Trinity Church corporation, might be understood in Western New

York and elsewhere. When this Church asks the shelter of law, justice and truth against aggression, a fair statement of her means, and a just and righteous judgment on her proceedings, responsibilities, gifts and labors, I am constrained to say, in view of her past history, present means and opening opportunities of usefulness, that I adopt not the language of distrust, denunciation or assault, but the cordial prayer of the Psalmist,—"Peace be within thy walls, and plenteousness within thy palaces; for my brethren and companions' sake I will wish thee prosperity: yea, because of the house of the Lord our God, I will seek to do thee good."

WILLIAM H. DE LANCEY,

Bishop of Western New York.

ERRATA.

On page 6, seventh line from bottom, for "Board" read "Bond."

On page 17, fourth line from top, for "Common" read "Communion."

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